

IMMIGRATION AND NATIONALITY ACT

(Reflecting Laws Enacted As of May 1, 1995)

WITH NOTES AND RELATED LAWS

**PREPARED FOR THE USE OF THE
COMMITTEE ON THE JUDICIARY
OF THE
HOUSE OF REPRESENTATIVES**



10th EDITION

MAY 1995

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Immigration and Nationality Act

[As Amended Through P.L. 104-8, May 1, 1995] *

(ACT OF JUNE 27, 1952; 66 STAT. 163; 8 U.S.C. 1101 et seq.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles, chapters, and sections according to the following table of contents, may be cited as the "Immigration and Nationality Act" [8 U.S.C. 1101, note].

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* Material within brackets and footnotes and matter printed in 8 point type are *not* contained in the Immigration and Nationality Act, though they also may be shown in title 8, United States Code.

The provisions of title 8, United States Code, have *not* been codified into positive law. For a proposed codification of such title into positive law in a structure significantly different and using different language from the current law, see H.R. 1292, as introduced in the 104th Congress.

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TITLE I—GENERAL

DEFINITIONS

SECTION 101. [8 U.S.C. 1101] (a) As used in this Act—

(1) The term “administrator” means the official designated by the Secretary of State pursuant to section 104(b) of this Act.

(2) The term “advocates” includes, but is not limited to, advises, recommends, furthers by overt act, and admits belief in.

(3) The term “alien” means any person not a citizen or national of the United States.

(4) The term “application for admission” has reference to the application for admission into the United States and not to the application for the issuance of an immigrant or nonimmigrant visa.

(5) The term “Attorney General” means the Attorney General of the United States.

(6) The term “border crossing identification card” means a document of identity bearing that designation issued to an alien who is lawfully admitted for permanent residence, or to an alien who is a resident in foreign contiguous territory, by a consular officer or an immigration officer for the purpose of crossing over the borders between the United States and foreign contiguous territory in accordance with such conditions for its issuance and use as may be prescribed by regulations.

(7) The term “clerk of court” means a clerk of a naturalization court.

(8) The terms “Commissioner” and “Deputy Commissioner” mean the Commissioner of Immigration and Naturalization and a Deputy Commissioner of Immigration and Naturalization, respectively.

(9) The term “consular officer” means any consular, diplomatic, or other officer of the United States designated under regulations prescribed under authority contained in this Act, for the purpose of issuing immigrant or nonimmigrant visas.

(10) The term “crewman” means a person serving in any capacity on board a vessel or aircraft.

(11) The term “diplomatic visa” means a nonimmigrant visa bearing that title and issued to a nonimmigrant in accordance with such regulations as the Secretary of State may prescribe.

(12) The term “doctrine” includes, but is not limited to, policies, practices, purposes, aims, or procedures.

(13) The term "entry" means any coming of an alien into the United States, from a foreign port or place or from an outlying possession, whether voluntarily or otherwise, except that an alien having a lawful permanent residence in the United States shall not be regarded as making an entry into the United States for the purposes of the immigration laws if the alien proves to the satisfaction of the Attorney General that his departure to a foreign port or place or to an outlying possession was not intended or reasonably to be expected by him or his presence in a foreign port or place or in an outlying possession was not voluntary: *Provided*, That no person whose departure from the United States was occasioned by deportation proceedings, extradition, or other legal process shall be held to be entitled to such exception.

(14) The term "foreign state" includes outlying possessions of a foreign state, but self-governing dominions and territories under mandate or trusteeship shall be regarded as separate foreign states.

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens¹—

(A)(i)² an ambassador, public minister, or career diplomatic or consular officer who has been accredited by a foreign government recognized de jure by the United States and who is accepted by the President or by the Secretary of State, and the members of the alien's immediate family;

(ii)⁴ upon a basis of reciprocity, other officials and employees who have been accredited by a foreign government recognized de jure by the United States, who are accepted by the Secretary of State, and the members of their immediate families; and

(iii) upon a basis of reciprocity, attendants, servants, personal employees, and members of their immediate families, of the officials and employees who have a nonimmigrant status under (i) and (ii) above;

(B) an alien (other than one coming for the purpose of study or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure;

(C) an alien in immediate and continuous transit through the United States, or an alien who qualifies as a person entitled to pass in transit to and from the United Nations Headquarters District and foreign countries, under the provisions of

¹ See Appendix VIII. D. for visa symbols applicable to specific classes of aliens. In addition to the nonimmigrant classes specified, §§ 222 and 223 of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5028), shown in Appendix II.A.1., provide, effective November 29, 1990, for additional nonimmigrant classifications for cooperative research, development, and coproduction projects and special education exchange visitor programs, respectively, for a very limited number of individuals.

² For provisions relating to change of status of 101(a)(15)(A) (i) or (ii) foreign government officials, see § 13 of the Act of September 11, 1957 (71 Stat. 642; 8 U.S.C. 1255b), contained in footnote 173 to section 245(a). For study and report concerning the status of individuals with diplomatic immunity in the United States, see § 137 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100-204, 101 Stat. 1345).

paragraphs (3), (4), and (5) of section 11 of the Headquarters Agreement with the United Nations (61 Stat. 758);³

(D)(i)⁴ an alien crewman serving in good faith as such in a capacity required for normal operation and service on board a vessel, as defined in section 258(a) (other than a fishing vessel having its home port or an operating base in the United States), or aircraft, who intends to land temporarily and solely in pursuit of his calling as a crewman and to depart from the United States with the vessel or aircraft on which he arrived or some other vessel or aircraft;

(ii)⁵ an alien crewman serving in good faith as such in any capacity required for normal operations and service aboard a fishing vessel having its home port or an operating base in the United States who intends to land temporarily in Guam and solely in pursuit of his calling as a crewman and to depart from Guam with the vessel on which he arrived;

(E)⁶ an alien entitled to enter the United States under and in pursuance of the provisions of a treaty of commerce and

³Section 11 of the Agreement (22 U.S.C. 287 note) reads as follows:

Section 11. The federal, state or local authorities of the United States shall not impose any impediments to transit to or from the headquarters district of (1) representatives of Members or officials of the United Nations, or of specialized agencies as defined in Article 57, paragraph 2, of the Charter, or the families of such representatives or officials, (2) experts performing missions for the United Nations or for such specialized agencies, (3) representatives of the press, or of radio, film or other information agencies, who have been accredited by the United Nations (or by such a specialized agency) in its discretion after consultation with the United States, (4) representatives of nongovernmental organizations recognized by the United Nations for the purpose of consultation under Article 71 of the Charter, or (5) other persons invited to the headquarters district by the United Nations or by such specialized agency on official business. The appropriate American authorities shall afford any necessary protection to such persons while in transit to or from the headquarters district.

⁴Subsection (d) of §315 of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3440), shown in Appendix II.B.1., provided for denial of crew member nonimmigrant visas in cases of strikes during the 1-year period beginning on November 6, 1986. The phrase "a capacity" was substituted for "any capacity" and the phrase "as defined in section 258(a)" was inserted by §203(c) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5018-5019), applicable to services performed on or after May 28, 1990.

⁵Clause (ii) was added by §1 of Pub. L. 99-505 (Oct. 21, 1986, 100 Stat. 1806). §2 of that Act provides as follows:

SEC. 2. TREATMENT OF DEPARTURES FROM GUAM.

In the administration of section 101(a)(15)(D)(ii) of the Immigration and Nationality Act (added by the amendment made by section 1 of this Act), an alien crewman shall be considered to have departed from Guam after leaving the territorial waters of Guam, without regard to whether the alien arrives in a foreign state before returning to Guam.

⁶Section 307(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (Pub. L. 100-449, 102 Stat. 1876, Sept. 28, 1988) provides as follows:

(a) NONIMMIGRANT TRADERS AND INVESTORS.—Upon a basis of reciprocity secured by the United States-Canada Free-Trade Agreement, a citizen of Canada, and the spouse and children of any such citizen if accompanying or following to join such citizen, may, if otherwise eligible for a visa and if otherwise admissible into the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), be considered to be classifiable as a nonimmigrant under section 101(a)(15)(E) of such Act (8 U.S.C. 1101(a)(15)(E)) if entering solely for a purpose specified in Annex 1502.1 (United States of America), Part B—Traders and Investors, of such Agreement, but only if any such purpose shall have been specified in such Annex as of the date of entry into force of such Agreement.

For provisions of Annex 1502.1, see Appendix VI.

Section 341(a) of the North American Free Trade Agreement Implementation Act (P.L. 103-182, 107 Stat. 2116, Dec. 8, 1993) provides as follows, effective as of January 1, 1994, under §342 of that Act:

(a) NONIMMIGRANT TRADERS AND INVESTORS.—Upon a basis of reciprocity secured by the Agreement, an alien who is a citizen of Canada or Mexico, and the spouse and children of any such alien if accompanying or following to join such alien, may, if otherwise eligible for a visa and if otherwise admissible into the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), be considered to be classifiable as a nonimmigrant under section 101(a)(15)(E) of such Act (8 U.S.C. 1101(a)(15)(E)) if entering solely for a purpose specified in

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navigation between the United States and the foreign state of which he is a national, and the spouse and children of any such alien if accompanying or following to join him: (i) solely to carry on substantial trade, including trade in services or trade in technology,⁷ principally between the United States and the foreign state of which he is a national; or (ii) solely to develop and direct the operations of an enterprise in which he has invested, or of an enterprise in which he is actively in the process of investing, a substantial amount of capital;

(F)(i) an alien having a residence in a foreign country which he has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who seeks to enter the United States temporarily and solely⁸ for the purpose of pursuing such a course of study at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in a language training program in the United States, particularly designated by him and approved by the Attorney General after consultation with the Secretary of Education, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each non-immigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn, and (ii) the alien spouse and minor children of any such alien if accompanying him or following to join him;

(G)(i)⁹ a designated principal resident representative of a foreign government recognized de jure by the United States, which foreign government is a member of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (59 Stat. 669), accredited resi-

Section B of Annex 1603 of the Agreement, but only if any such purpose shall have been specified in such Annex on the date of entry into force of the Agreement. For purposes of this section, the term "citizen of Mexico" means "citizen" as defined in Annex 1608 of the Agreement.

For text of annex provisions referred to, see Appendix VI.B.

⁷ For list of foreign states with which the United States has a treaty of commerce and navigation, see Appendix VIII. C. The phrase "including trade in services or trade in technology" was inserted by § 204(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5019), effective October 1, 1991, under § 231 of such Act. § 204(b) of such Act, shown in Appendix II.A.1., considers 2 foreign states (probably Australia and Sweden) to be described in subparagraph (E) if they extend reciprocal nonimmigrant treatment to nationals of the United States. Also, the Act of June 18, 1954 (68 Stat. 264; 8 U.S.C. 1184a), provides as follows: "That, upon a basis of reciprocity secured by agreement entered into by the President of the United States and the President of the Philippines, a national of the Philippines, and the spouse and children of any such national if accompanying or following to join him, may, if otherwise eligible for a visa and if otherwise admissible into the United States under the Immigration and Nationality Act (66 Stat. 163), be considered to be classifiable as a nonimmigrant under section 101(a)(15)(E) of said Act if entering solely for the purposes specified in subsection (i) or (ii) of said section."

⁸ For 3-year provision providing off-campus work authorization for students under this subparagraph, see § 221 of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5027), shown in Appendix II.A.1.

⁹ For provisions relating to change of status of 101(a)(15)(G) (i) or (ii) foreign government officials, see § 13 of the Act of September 11, 1957 (71 Stat. 642; 8 U.S.C. 1255b), contained in footnote 173 to section 245(a). Also see § 702 of the Intelligence Authorization Act for Fiscal Year 1987 (Pub. L. 99-569) respecting the policy of the United States to restrict the number of nationals of the Soviet Union admitted to the United States to serve as members of the Soviet mission to the United Nations to the number of United States nationals serving as members of the United States mission to the United Nations. The International Organizations Immunities Act is shown in the note to section 288 of title 22, U.S. Code.

dent members of the staff of such representatives, and members of his or their immediate family;

(ii)⁹ other accredited representatives of such a foreign government to such international organizations, and the members of their immediate families;

(iii) an alien able to qualify under (i) or (ii) above except for the fact that the government of which such alien is an accredited representative is not recognized de jure by the United States, or that the government of which he is an accredited representative is not a member of such international organization, and the members of his immediate family;

(iv) officers, or employees of such international organizations, and the members of their immediate families;

(v) attendants, servants, and personal employees of any such representative, officer, or employee, and the members of the immediate families of such attendants, servants, and personal employees;

(H) an alien (i)¹⁰ (a)¹¹ who is coming temporarily to the United States to perform services as a registered nurse, who meets the qualifications described in section 212(m)(1), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file and in effect under section 212(m)(2)¹² for each facility (which facility shall include the petitioner and each worksite, other than a private household worksite, if the worksite is not the alien's employer or controlled by the employer) for which the alien will perform the services, or (b)¹³ subject to

¹⁰The requirement, in the case of an H-1 nonimmigrant, that the alien have a residence in a foreign country which he has no intention of abandoning was removed, effective October 1, 1991, by § 205(e) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5022). For provision relating to entry of Canadian nonimmigrant professionals under H-1, see § 214(e). § 937 of the National Defense Authorization Act, Fiscal Years 1990 and 1991 (Pub. L. 101-189, Nov. 29, 1989) provides as follows:

SEC. 937. EXTENSION OF H-1 IMMIGRATION STATUS FOR CERTAIN NONIMMIGRANTS EMPLOYED IN COOPERATIVE RESEARCH AND DEVELOPMENT PROJECTS AND COPRODUCTION PROJECTS

The Attorney General shall provide for the extension through December 31, 1991, of nonimmigrant status under section 101(a)(15)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) for an alien to perform temporarily services relating to a cooperative research and development project or a coproduction project provided under a government-to-government agreement administered by the Secretary of Defense in the case of an alien who has had such status for a period of at least five years if such status has not expired as of the date of the enactment of this Act but would otherwise expire during 1989, 1990, or 1991, due only to the time limitations with respect to such status.

¹¹Subclause (a) of clause (i) was inserted by § 3(a)(1) of the Immigration Nursing Relief Act of 1989 (Pub. L. 101-238, Dec. 18, 1989), and applies, under § 3(d) of such Act, to "classification petitions filed for nonimmigrant status only during the 5-year period beginning on [September 1, 1990] the first day of the 9th month beginning after the date of the enactment of this Act". § 4 of the Immigration Amendments of 1988 (Pub. L. 100-658, Nov. 15, 1988), shown in Appendix II.F., provided for an extension of H-1 status for certain registered nurses through December 31, 1989.

¹²The phrase "for each facility" through the end of subclause (a) of clause (i) was inserted by § 162(f)(2)(A) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5012), effective as if included in the enactment of the Immigration Nursing Relief Act of 1989.

¹³§ 205(c)(1) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5020) amended subclause (b) of clause (i) in its entirety, effective October 1, 1991; previous to that date the subclause read as follows: "who is of distinguished merit and ability and who is coming temporarily to the United States to perform services (other than services as a registered nurse) of an exceptional nature requiring such merit and ability, and who, in the case of a graduate of a medical school coming to the United States to perform services as a member of the medical profession, is coming pursuant to an invitation from a public or nonprofit private educational

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section 212(j)(2), who is coming temporarily to the United States to perform services (other than services described in subclause (a) during the period in which such subclause applies and other than services described in subclause (ii)(a) or in subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1) or as a fashion model,¹⁴ who meets the requirements for the occupation specified in section 214(i)(2) or, in the case of a fashion model, is of distinguished merit and ability, and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that the intending employer has filed with the Secretary an application under section 212(n)(1); or (ii)(a) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform agricultural labor or services, as defined by the Secretary of Labor in regulations and including agricultural labor defined in section 3121(g) of the Internal Revenue Code of 1954 and agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), of a temporary or seasonal nature, or (b) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform other temporary service or labor if unemployed persons capable of performing such service or labor cannot be found in this country, but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession; or (iii) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States as a trainee, other than to receive graduate medical education or training, in a training program that is not designed primarily to provide productive employment;¹⁵ and the alien spouse and minor children of any such alien specified in this paragraph if accompanying him or following to join him;

(I) upon a basis of reciprocity, an alien who is a bona fide representative of foreign press, radio, film, or other foreign information media, who seeks to enter the United States solely to engage in such vocation, and the spouse and children of such a representative if accompanying or following to join him;

(J) an alien having a residence in a foreign country which he has no intention of abandoning who is a bona fide student, scholar, trainee, teacher, professor, research assistant, specialist, or leader in a field of specialized knowledge or skill, or other person of similar description, who is coming temporarily to the United States as a participant in a program designated by the Director of the United States Information Agency, for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special

or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency".

¹⁴References to fashion models were added by § 207(b) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1741), effective April 1, 1992.

¹⁵The phrase "in a training program that is not designed primarily to provide productive employment" was inserted in subparagraph (H)(iii) by § 205(d) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5022), effective October 1, 1991, under § 231 of that Act.

skills, or receiving training and who, if he is coming to the United States to participate in a program under which he will receive graduate medical education or training, also meets the requirements of section 212(j), and the alien spouse and minor children of any such alien if accompanying him or following to join him;

(K) an alien who is the fiancée or fiancé of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry, and the minor children of such fiancée or fiancé accompanying him or following to join him;

(L)¹⁶ an alien who, within 3 years preceding the time of his application for admission into the United States, has been employed continuously for one year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States temporarily in order to continue to render his services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge, and the alien spouse and minor children of any such alien if accompanying him or following to join him;

(M)(i) an alien having a residence in a foreign country which he has no intention of abandoning who seeks to enter the United States temporarily and solely for the purpose of pursuing a full course of study at an established vocational or other recognized nonacademic institution (other than in a language training program) in the United States particularly designated by him and approved by the Attorney General, after consultation with the Secretary of Education, which institution shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant nonacademic student and if any such institution fails to make reports promptly the approval shall be withdrawn, and (ii) the alien spouse and minor children of any such alien if accompanying him or following to join him;

(N)(i) the parent of an alien accorded the status of special immigrant under paragraph (27)(I)(i), but only if and while the alien is a child, or (ii) a child of such parent or of an alien accorded the status of a special immigrant under clause (ii), (iii), or (iv) of paragraph (27)(I);

(O)¹⁷ an alien who—

¹⁶ For clarification of treatment of certain international accounting firms under this subparagraph, see § 206(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5022), shown in Appendix II.A.1. The phrase “within 3 years preceding” was substituted for “immediately preceding” by § 206(c) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5023), effective October 1, 1991.

¹⁷ Subparagraphs (O) and (P) were added by § 207(a)(3) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5023), effective October 1, 1991, under § 231 of that Act. Subsection (b) of § 202 of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1737) provides as follows:

(b) REPORT.—(1) By not later than October 1, 1994, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the Senate and of the House of Representatives a report containing information relating to the admission of artists, entertainers, athletes, and related support personnel as nonimmigrants under subparagraphs (O) and (P) of section 101(a)(15) of the Immigration and Nationality Act, and information on the laws, regulations, and practices in effect in other countries that affect United States citizens and permanent

(i) has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim or, with regard to motion picture and television productions a demonstrated record of extraordinary achievement, and whose achievements have been recognized in the field through extensive documentation, and seeks to enter the United States to continue work in the area of extraordinary ability; or

(ii)(I) seeks to enter the United States temporarily and solely for the purpose of accompanying and assisting in the artistic or athletic performance by an alien who is admitted under clause (i) for a specific event or events,

(II) is an integral part of such actual performance,

(III)(a) has critical skills and experience with such alien which are not of a general nature and which cannot be performed by other individuals, or (b) in the case of a motion picture or television production, has skills and experience with such alien which are not of a general nature and which are critical either based on a pre-existing longstanding working relationship or, with respect to the specific production, because significant production (including pre- and post-production work) will take place both inside and outside the United States and the continuing participation of the alien is essential to the successful completion of the production, and

(IV) has a foreign residence which the alien has no intention of abandoning; or

(iii) is the alien spouse or child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien;

(P)¹⁷ an alien having a foreign residence which the alien has no intention of abandoning who—

(i)¹⁸ (a) is described in section 214(c)(4)(A) (relating to athletes), or (b) is described in section 214(c)(4)(B) (relating to entertainment groups);

(ii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an artist or entertainer or with such a group under a reciprocal exchange program which is between an organization or organizations in the United States and an organization or orga-

resident aliens in the arts, entertainment, and athletics, in order to evaluate the impact of such admissions, laws, regulations, and practices on such citizens and aliens.

(2) Not later than 30 days after the date the Committee of the Judiciary on the Senate receives the report under paragraph (1), the Chairman of the Committee shall make the report available to interested parties and shall hold a hearing respecting the report. No later than 90 days after the date of receipt of the report, such Committee shall report to the Senate its findings and any legislation it deems appropriate.

¹⁸Clause (i) was amended to read as shown by section 203(a) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1737), effective April 1, 1992.

NOTE.—See footnote 17 on previous page.

nizations in one or more foreign states and which provides for the temporary exchange of artists and entertainers;

(iii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

(II) seeks to enter the United States temporarily and solely to perform, teach, or coach as such an artist or entertainer or with such a group under a commercial or non-commercial program that is culturally unique; or

(iv) is the spouse or child of an alien described in clause (i), (ii), or (iii) and is accompanying, or following to join, the alien;

(Q)¹⁹ an alien having a residence in a foreign country which he has no intention of abandoning who is coming temporarily (for a period not to exceed 15 months) to the United States as a participant in an international cultural exchange program approved by the Attorney General for the purpose of providing practical training, employment, and the sharing of the history, culture, and traditions of the country of the alien's nationality and who will be employed under the same wages and working conditions as domestic workers;

(R)²⁰ an alien, and the spouse and children of the alien if accompanying or following to join the alien, who—

(i) for the 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States; and

(ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii); or

(S)^{20a} subject to section 214(j), an alien—

(i) who the Attorney General determines—

(I) is in possession of critical reliable information concerning a criminal organization or enterprise;

(II) is willing to supply or has supplied such information to Federal or State law enforcement authorities or a Federal or State court; and

(III) whose presence in the United States the Attorney General determines is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization or enterprise; or

(ii) who the Secretary of State and the Attorney General jointly determine—

(I) is in possession of critical reliable information concerning a terrorist organization, enterprise, or operation;

¹⁹ Subparagraph (Q) was added by § 208(3) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5026), effective October 1, 1991.

²⁰ Subparagraph (R) was added by § 209(a)(3) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5026), effective October 1, 1991.

^{20a} Subparagraph (S) was added by § 130003(a)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 2024, Sept. 13, 1994), effective with respect to aliens against whom deportation proceedings are initiated after September 13, 1994, under § 130004(d) of that Act.

(II) is willing to supply or has supplied such information to Federal law enforcement authorities or a Federal court;

(III) will be or has been placed in danger as a result of providing such information; and

(IV) is eligible to receive a reward under section 36(a) of the State Department Basic Authorities Act of 1956,

and, if the Attorney General (or with respect to clause (ii), the Secretary of State and the Attorney General jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i) or (ii) if accompanying, or following to join, the alien.

(16) The term "immigrant visa" means an immigrant visa required by this Act and properly issued by a consular officer at his office outside of the United States to an eligible immigrant under the provisions of this Act.

(17) The term "immigration laws" includes this Act and all laws, conventions, and treaties of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens.

(18) The term "immigration officer" means any employee or class of employees of the Service or of the United States designated by the Attorney General, individually or by regulation, to perform the functions of an immigration officer specified by this Act or any section thereof.

(19) The term "ineligible to citizenship," when used in reference to any individual, means, notwithstanding the provisions of any treaty relating to military service, an individual who is, or was at any time, permanently debarred from becoming a citizen of the United States under section 3(a) of the Selective Training and Service Act of 1940, as amended (54 Stat. 885; 55 Stat. 844), or under section 4(a) of the Selective Service Act of 1948, as amended (62 Stat. 605; 65 Stat. 76), or under any section of this Act, or any other Act, or under any law amendatory of, supplementary to, or in substitution for, any of such sections or Acts.

(20) The term "lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

(21) The term "national" means a person owing permanent allegiance to a state.

(22) The term "national of the United States" means (A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(23) The term "naturalization" means the conferring of nationality of a state upon a person after birth, by any means whatsoever.

[Paragraph (24) was repealed by § 305(m)(1) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1750), effective as if included in section 407(d) of the Immigration Act of 1990.]

(25) The term “noncombatant service” shall not include service in which the individual is not subject to military discipline, court martial, or does not wear the uniform of any branch of the armed forces.

(26) The term “nonimmigrant visa” means a visa properly issued to an alien as an eligible nonimmigrant by a competent officer as provided in this Act.

(27) The term “special immigrant” means—

(A)²¹ an immigrant, lawfully admitted for permanent residence, who is returning from a temporary visit abroad;

(B) an immigrant who was a citizen of the United States and may, under section 324(a) or 327 of title III, apply for reacquisition of citizenship;

(C)²² an immigrant, and the immigrant’s spouse and children if accompanying or following to join the immigrant, who—

(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

(ii) seeks to enter the United States—

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

(II) before October 1, 1997^{22a}, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

(III) before October 1, 1997^{22a}, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i);

(D)²³ an immigrant who is an employee, or an honorably retired former employee, of the United States Government abroad, or of the American Institute in Taiwan^{23a}, and who has performed faithful service for a total of fifteen years, or more, and his accompanying spouse and children: *Provided*, That the principal officer of a Foreign Service establishment

²¹ Private Law 98–53 (98 Stat. 3437) provides as follows:

“That an alien lawfully admitted to the United States for permanent residence shall be considered, for purposes of section 101(a)(27)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(A)), to be temporarily visiting abroad during any period (before or after the date of the enactment of this Act [viz., October 30, 1984]) in which the alien is employed by the American University of Beirut.”

²² Subparagraph (C) was amended in its entirety by § 151(a) of the Immigration Act of 1990 (P.L. 101–649, Nov. 29, 1990, 104 Stat. 5004), effective October 1, 1991. For previous subparagraph (C), see Appendix II.A.2.

^{22a} § 214 of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103–416, 108 Stat. 4314, Oct. 25, 1994), substituted “1997” for “1994” in subclauses (II) and (III).

²³ § 152 of the Immigration Act of 1990 (P.L. 101–649, Nov. 29, 1990, 104 Stat. 5005) provided for certain aliens employed at the United States mission in Hong Kong to be treated as special immigrants under this subparagraph.

^{23a} References to the American Institute in Taiwan were inserted by § 201 of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103–416, 108 Stat. 4310, Oct. 25, 1994).

(or, in the case of the American Institute in Taiwan, the Director thereof)^{23a}, in his discretion, shall have recommended the granting of special immigrant status to such alien in exceptional circumstances and the Secretary of State approves such recommendation and finds that it is in the national interest to grant such status;

(E)²⁴ an immigrant, and his accompanying spouse and children, who is or has been an employee of the Panama Canal Company or Canal Zone Government before the date on which the Panama Canal Treaty of 1977 (as described in section 3 (a)(1) of the Panama Canal Act of 1979) enters into force, who was resident in the Canal Zone on the effective date of the exchange of instruments of ratification of such Treaty, and who has performed faithful service as such an employee for one year or more;

(F)²⁴ an immigrant, and his accompanying spouse and children, who is a Panamanian national and (i) who, before the date on which such Panama Canal Treaty of 1977 enters into force, has been honorably retired from United States Government employment in the Canal Zone with a total of 15 years or more of faithful service, or (ii) who on the date on which such Treaty enters into force, has been employed by the United States Government in the Canal Zone with a total of 15 years or more of faithful service and who subsequently is honorably retired from such employment^{24a} or continues to be employed by the United States Government in an area of the former Canal Zone or continues to be employed by the United States Government in an area of the former Canal Zone;

(G)²⁴ an immigrant, and his accompanying spouse and children, who was an employee of the Panama Canal Company or Canal Zone government on the effective date of the exchange of instruments of ratification of such Panama Canal Treaty of 1977, who has performed faithful service for five years or more as such an employee, and whose personal safety, or the personal safety of whose spouse or children, as a direct result of such Treaty, is reasonably placed in danger because of the special nature of any of that employment;

(H) an immigrant, and his accompanying spouse and children, who—

(i) has graduated from a medical school or has qualified to practice medicine in a foreign state,

(ii) was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date,

(iii) entered the United States as a nonimmigrant under subsection (a)(15)(H) or (a)(15)(J) before January 10, 1978, and

²⁴ Subsection (c) of section 3201 of the Panama Canal Act of 1979 (Public Law 96-70), which limited the total and annual number of special immigrants under subparagraphs (E), (F) and (G), was stricken by § 212(a) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4314, Oct. 25, 1994).

^{24a} Matter beginning with "or continues" was inserted by § 3605 of the National Defense Authorization Act for Fiscal Year 1995 (P.L. 103-337, Oct. 5, 1994, 108 Stat. 3113).

(iv) has been continuously present in the United States in the practice or study of medicine since the date of such entry;

(I)(i)²⁵ an immigrant who is the unmarried son or daughter of an officer or employee, or of a former officer or employee, of an international organization described in paragraph (15)(G)(i), and who (I) while maintaining the status of a non-immigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and 21 years, and (II) applies for a visa or adjustment of status under this subparagraph no later than his twenty-fifth birthday or six months after the date of the enactment of the Immigration Technical Corrections Act of 1988,²⁶ whichever is later;

(ii) an immigrant who is the surviving spouse of a deceased officer or employee of such an international organization, and who (I) while maintaining the status of a non-immigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the death of such officer or employee, and (II) files a petition for status under this subparagraph no later than six months after the date of such death or six months after the date of the enactment of the Immigration Technical Corrections Act of 1988,²⁶ whichever is later;

(iii) an immigrant who is a retired officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the officer or employee's retirement from any such international organization, and (II)^{26a} files a petition for status under this sub-

²⁵ Paragraph (2) of § 2(o) of the Immigration Technical Corrections Act of 1988 (102 Stat. 2613) provides as follows:

(2) Only for purposes of section 101(a)(27)(I) of the Immigration and Nationality Act, an alien who is or was an officer or employee of an international organization (or is the unmarried son or daughter or surviving spouse of such an officer or employee or former officer or employee) is considered to be residing and physically present in the United States during a period in which the alien is residing in the United States but is absent from the United States because of the officer's or employee's need to conduct official business on behalf of the organization or because of customary leave, but only if during the period of the absence the officer or employee continues to have a duty station in the United States and, in the case of such an unmarried son or daughter, the son or daughter is not enrolled in a school outside the United States.

²⁶ The Immigration Technical Corrections Act of 1988 was enacted on October 24, 1988.

^{26a} Subclause (II) was amended in its entirety by § 202 of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4311, Oct. 25, 1994) to eliminate the January 1, 1993, sunset and to permit applications through 6 months after enactment of P.L. 103-416.

paragraph no later than six months after the date of such retirement or six months after the date of enactment of the Immigration and Nationality Technical Corrections Act of 1994, whichever is later; or

(iv) an immigrant who is the spouse of a retired officer or employee accorded the status of special immigrant under clause (iii), accompanying or following to join such retired officer or employee as a member of his immediate family;

(J)²⁷ an immigrant (i) who has been declared dependent on a juvenile court located in the United States or whom^{27a} such a court has legally committed to, or placed under the custody of, an agency or department of a State and who has been deemed eligible by that court for long-term foster care, and (ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act; or

(K)²⁸ an immigrant who has served honorably on active duty in the Armed Forces of the United States after October 15, 1978, and after original lawful enlistment outside the United States (under a treaty or agreement in effect on the date of the enactment of this subparagraph) for a period or periods aggregating—

(i) 12 years and who, if separated from such service, was never separated except under honorable conditions, or

(ii) 6 years, in the case of an immigrant who is on active duty at the time of seeking special immigrant status under this subparagraph and who has reenlisted to incur a total active duty service obligation of at least 12 years, and the spouse or child of any such immigrant if accompanying or following to join the immigrant, but only if the executive department under which the immigrant serves or served recommends the granting of special immigrant status to the immigrant.

(28) The term "organization" means, but is not limited to, an organization, corporation, company, partnership, association, trust, foundation or fund; and includes a group of persons, whether or not incorporated, permanently or temporarily associated together with joint action on any subject or subjects.

(29) The term "outlying possessions of the United States" means American Samoa and Swains Island.

(30) The term "passport" means any travel document issued by competent authority showing the bearer's origin, identity, and na-

²⁷ Subparagraph (J) was added by § 153(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5005), effective as of November 29, 1990, under § 161(b)(6) of that Act.

^{27a} The phrase beginning "or whom" was inserted by § 219(a) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4316, Oct. 25, 1994), effective under § 219(dd) of that Act as if included in the enactment of the Immigration Act of 1990.

²⁸ Subparagraph (K) was added by § 2(a)(3) of the Armed Forces Immigration Adjustment Act of 1991 (P.L. 102-110, Oct. 1, 1991, 105 Stat. 555), effective December 1, 1991.

NOTE.—See footnote 26 on previous page.

tionality if any, which is valid for the entry of the bearer into a foreign country.

(31) The term "permanent" means a relationship of continuing or lasting nature, as distinguished from temporary, but a relationship may be permanent even though it is one that may be dissolved eventually at the instance either of the United States or of the individual, in accordance with law.

(32) The term "profession" shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies, or seminaries.

(33) The term "residence" means the place of general abode; the place of general abode of a person means his principal, actual dwelling place in fact, without regard to intent.

(34) The term "Service" means the Immigration and Naturalization Service of the Department of Justice.

(35) The term "spouse", "wife", or "husband" does not include a spouse, wife, or husband by reason of any marriage ceremony where the contracting parties thereto are not physically present in the presence of each other, unless the marriage shall have been consummated.

(36)²⁹ The term "State" includes the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.

(37) The term "totalitarian party" means an organization which advocates the establishment in the United States of a totalitarian dictatorship or totalitarianism. The terms "totalitarian dictatorship" and "totalitarianism" mean and refer to systems of government not representative in fact, characterized by (A) the existence of a single political party, organized on a dictatorial basis, with so close an identity between such party and its policies and the governmental policies of the country in which it exists, that the party and the government constitute an indistinguishable unit, and (B) the forcible suppression of opposition to such party.

(38)²⁹ The term "United States", except as otherwise specifically herein provided, when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands of the United States.

(39) The term "unmarried", when used in reference to any individual as of any time, means an individual who at such time is not married, whether or not previously married.

(40)^{29a} The term "world communism" means a revolutionary movement, the purpose of which is to establish eventually a Com-

²⁹Section 506(c) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States, see Appendix V.A.1., deems the Northern Mariana Islands a part of the United States and a State for purposes of immediate relative status determinations and judicial naturalization, effective upon the termination of the trusteeship agreement and the establishment of the Commonwealth of the Northern Mariana Islands (namely, October 24, 1986). Paragraph (36) was amended by § 407(a)(2) of the Immigration Act of 1990 (104 Stat. 5040).

^{29a}§ 103(c) of the FRIENDSHIP Act (P.L. 103-199, 107 Stat. 2320, Dec. 17, 1993) provides as follows:

SEC. 103. STATUTORY PROVISIONS THAT HAVE BEEN APPLICABLE TO THE SOVIET UNION.

(a) IN GENERAL.—There are numerous statutory provisions that were enacted in the context of United States relations with a country, the Soviet Union, that are fundamentally different

Continued

munist totalitarian dictatorship in any or all the countries of the world through the medium of an internationally coordinated Communist political movement.

(41) The term "graduates of a medical school" means aliens who have graduated from a medical school or who have qualified to practice medicine in a foreign state, other than such aliens who are of national or international renown in the field of medicine.

(42) The term "refugee" means (A) any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, or (B) in such circumstances as the President after appropriate consultation (as defined in section 207(e) of this Act) may specify, any person who is within the country of such person's nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The term "refugee" does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.

(43)³⁰ The term "aggravated felony" means—

from the relations that now exist between the United States and Russia, between the United States and Ukraine, and between the United States and the other independent states of the former Soviet Union.

(b) EXTENT OF SUCH PROVISIONS.—Many of the provisions referred to in subsection (a) imposed limitations specifically with respect to the Soviet Union, and its constituent republics, or utilized language that reflected the tension that existed between the United States and the Soviet Union at the time of their enactment. Other such provisions did not refer specifically to the Soviet Union, but nonetheless were directed (or may be construed as having been directed) against the Soviet Union on the basis of the relations that formerly existed between the United States and the Soviet Union, particularly in its role as the leading communist country.

(c) FINDINGS AND AFFIRMATION.—The Congress finds and affirms that provisions such as those described in this section, including—

- (1) section 216 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4316);
 - (2) sections 136 and 804 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93),
 - (3) section 1222 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1411),
 - (4) the Multilateral Export Control Enhancement Amendments Act (50 U.S.C. 2410 note et seq.),
 - (5) the joint resolution providing for the designation of "Captive Nations Week" (Public Law 86-90),
 - (6) the Communist Control Act of 1954 (Public Law 83-637),
 - (7) provisions in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including sections 101(a)(40), 101(e)(3), and 313(a)(3),
 - (8) section 2 of the joint resolution entitled "A joint resolution to promote peace and stability in the Middle East", approved March 9, 1957 (Public Law 85-7), and
 - (9) section 43 of the Bretton Woods Agreements Act (22 U.S.C. 286aa),
- should not be construed as being directed against Russia, Ukraine, or the other independent states of the former Soviet Union, connoting an adversarial relationship between the United States and the independent states, or signifying or implying in any manner unfriendliness toward the independent states.

³⁰ Paragraph (43) was amended in its entirety by § 222(a) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4320, Oct. 25, 1994), applicable to convictions entered on or after October 25, 1994. For convictions before that date, the paragraph provided as follows: "The term 'aggravated felony' means murder, any illicit trafficking in any controlled substance (as defined in section 102 of the Controlled Substances Act), including any drug trafficking crime as defined in section 924(c)(2) of title 18, United States Code, or any illicit

- (A) murder;
- (B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code);
- (C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of that title);
- (D) an offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded \$100,000;
- (E) an offense described in—
 - (i) section 842 (h) or (i) of title 18, United States Code, or section 844 (d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);
 - (ii) section 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18, United States Code (relating to firearms offenses); or
 - (iii) section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);
- (F) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;
- (G) a theft offense (including receipt of stolen property) or burglary offense for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years;
- (H) an offense described in section 875, 876, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);
- (I) an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);
- (J) an offense described in section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations) for which a sentence of 5 years' imprisonment or more may be imposed;
- (K) an offense that—
 - (i) relates to the owning, controlling, managing, or supervising of a prostitution business; or

trafficking in any firearms or destructive devices as defined in section 921 of such title, any offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments), or any crime of violence (as defined in section 16 of title 18, United States Code, not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years, or any attempt or conspiracy to commit any such act. Such term applies to offenses described in the previous sentence whether in violation of Federal or State law and also applies to offenses described in the previous sentence in violation of foreign law for which the term of imprisonment was completed within the previous 15 years."

(ii) is described in section 1581, 1582, 1583, 1584, 1585, or 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

(L) an offense described in—

(i) section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code; or

(ii) section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents);

(M) an offense that—

(i) involves fraud or deceit in which the loss to the victim or victims exceeds \$200,000; or

(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds \$200,000;

(N) an offense described in section 274(a)(1)^{30a} of title 18, United States Code (relating to alien smuggling) for the purpose of commercial advantage;

(O) an offense described in section 1546(a) of title 18, United States Code (relating to document fraud) which constitutes trafficking in the documents described in such section for which the term of imprisonment imposed (regardless of any suspicion^{30b} of such imprisonment) is at least 5 years;

(P) an offense relating to a failure to appear by a defendant for service of sentence if the underlying offense is punishable by imprisonment for a term of 15 years or more; and

(Q) an attempt or conspiracy to commit an offense described in this paragraph.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.

(44)(A)³² The term “managerial capacity” means an assignment within an organization in which the employee primarily—

(i) manages the organization, or a department, subdivision, function, or component of the organization;

(ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;

^{30a} There is no section 274 of title 18, U.S. Code; reference to title 18 should probably have been deleted so that the reference should be to section 274 *in this Act* (namely, the Immigration and Nationality Act).

^{30b} Should be “suspension”.

³² Paragraph (44) was added by § 123 of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 4995).

(iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization) or, if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and

(iv) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority. A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

(B) The term "executive capacity" means an assignment within an organization in which the employee primarily—

(i) directs the management of the organization or a major component or function of the organization;

(ii) establishes the goals and policies of the organization, component, or function;

(iii) exercises wide latitude in discretionary decision-making; and

(iv) receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

(C) If staffing levels are used as a factor in determining whether an individual is acting in a managerial or executive capacity, the Attorney General shall take into account the reasonable needs of the organization, component, or function in light of the overall purpose and stage of development of the organization, component, or function. An individual shall not be considered to be acting in a managerial or executive capacity (as previously defined) merely on the basis of the number of employees that the individual supervises or has supervised or directs or has directed.

(45)³³ The term "substantial" means, for purposes of paragraph (15)(E) with reference to trade or capital, such an amount of trade or capital as is established by the Secretary of State, after consultation with appropriate agencies of Government.

(46)³⁴ The term "extraordinary ability" means, for purposes of section 101(a)(15)(O)(i), in the case of the arts, distinction.

(b) As used in titles I and II—

(1) The term "child" means an unmarried person under twenty-one years of age who is—

(A) a legitimate child;

(B) a stepchild, whether or not born out of wedlock, provided the child had not reached the age of eighteen years at the time the marriage creating the status of stepchild occurred;

(C) a child legitimated under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in or outside the United States, if such legitimation takes place before the child reaches the age of

³³ Paragraph (45) was added by § 204(c) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5019), effective October 1, 1991.

³⁴ Paragraph (46) was added by § 205(a) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1740), effective April 1, 1992.

eighteen years and the child is in the legal custody of the legitimating parent or parents at the time of such legitimation

(D) an illegitimate child, by, through whom, or on whose behalf a status, privilege, or benefit is sought by virtue of the relationship of the child to its natural mother or to its natural father if the father has or had a bona fide parent-child relationship with the person;

(E) a child adopted while under the age of sixteen years if the child has been in the legal custody of, and has resided with, the adopting parent or parents for at least two years *Provided*, That no natural parent of any such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act; or

(F) a child, under the age of sixteen at the time a petition is filed in his behalf to accord a classification as an immediate relative under section 201(b), who is an orphan because of the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents, or for whom the sole or surviving parent is incapable of providing the proper care and has in writing irrevocably released the child for emigration and adoption; who has been adopted abroad by a United States citizen and spouse jointly, or by an unmarried United States citizen at least twenty-five years of age, who personally saw and observed the child prior to or during the adoption proceedings or who is coming to the United States for adoption by a United States citizen and spouse jointly, or by an unmarried United States citizen at least twenty-five years of age, who have or has complied with the preadoption requirements, if any, of the child's proposed residence: *Provided*, That the Attorney General is satisfied that proper care will be furnished the child if admitted to the United States: *Provided further*, That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

(2) The term "parent", "father", or "mother" means a parent, father, or mother only where the relationship exists by reason of any of the circumstances set forth in (1) above,³⁵ except that, for purposes of paragraph (1)(F) (other than the second proviso therein) in the case of an illegitimate child described in paragraph (1)(D) (and not described in paragraph (1)(C)), the term "parent" does not include the natural father or the child if the father has disappeared or abandoned or deserted the child or if the father has in writing irrevocably released the child for emigration and adoption.

(3) The term "person" means an individual or an organization

³⁵ The language following "above" was inserted by § 210(a) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (in Pub. L. 100-459, Oct. 1, 1988, 102 Stat. 2203). § 210(b) of such Act provides as follows:

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 315 of the Immigration Reform and Control Act of 1988 and shall expire on October 1, 1989.

Subsection (a) of section 611 of the Department of Justice Appropriations Act, 1990 (P.L. 101-162, 103 Stat. 1038-1039) amended § 101(b)(2) of the INA in a similar manner as under Pub. L. 100-459 to make the change permanent. Subsection (b) of that section 611 provides as follows:

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989, upon the expiration of the similar amendment made by section 210(a) of the Department of Justice Appropriations Act, 1989 (title II of Public Law 100-459, 102 Stat. 2203).

(4) The term "special inquiry officer" means any immigration officer who the Attorney General deems specially qualified to conduct specified classes of proceedings, in whole or in part, required by this Act to be conducted by or before a special inquiry officer and who is designated and selected by the Attorney General, individually or by regulation, to conduct such proceedings. Such special inquiry officer shall be subject to such supervision and shall perform such duties, not inconsistent with this Act, as the Attorney General shall prescribe.

(5) The term "adjacent islands" includes Saint Pierre, Miquelon, Cuba, the Dominican Republic, Haiti, Bermuda, the Bahamas, Barbados, Jamaica, the Windward and Leeward Islands, Trinidad, Martinique, and other British, French, and Netherlands territory or possessions in or bordering on the Caribbean Sea.

(c) As used in title III—

(1) The term "child" means an unmarried person under twenty-one years of age and includes a child legitimated under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in the United States or elsewhere, and, except as otherwise provided in sections 320, 321, and 322 of title III, a child adopted in the United States, if such legitimation or adoption takes place before the child reaches the age of sixteen years, and the child is in the legal custody of the legitimating or adopting parent or parents at the time of such legitimation or adoption.

(2) The terms "parent", "father", and "mother" include in the case of a posthumous child a deceased parent, father, and mother.

[Subsection (d) was struck by § 9(a)(3) of Pub. L. 100-525.]

(e) For the purpose of this Act—

(1) The giving, loaning, or promising of support or of money or any other thing of value to be used for advocating any doctrine shall constitute the advocating of such doctrine; but nothing in this paragraph shall be construed as an exclusive definition of advocating.

(2) The giving, loaning, or promising of support or of money or any other thing of value for any purpose to any organization shall be presumed to constitute affiliation therewith; but nothing in this paragraph shall be construed as an exclusive definition of affiliation.

(3) Advocating the economic, international, and governmental doctrines of world communism means advocating the establishment of a totalitarian Communist dictatorship in any or all of the countries of the world through the medium of an internationally coordinated Communist movement.

(f) For the purposes of this Act—

No person shall be regarded as, or found to be, a person of good moral character who, during the period for which good moral character is required to be established, is, or was—

(1) a habitual drunkard;

[Paragraph (2) was struck by § 2(c)(1) of Pub. L. 97-116.]

(3) a member of one or more of the classes of persons, whether excludable or not, described in paragraphs (2)(D),

(6)(E), and (9)(A)³⁶ of section 212(a) of this Act; or subparagraphs (A) and (B) of section 212(a)(2) and subparagraph (C) thereof of such section (except as such paragraph relates to a single offense of simple possession of 30 grams or less of marijuana); if the offense described therein, for which such person was convicted or of which he admits the commission, was committed during such period;

(4) one whose income is derived principally from illegal gambling activities;

(5) one who has been convicted of two or more gambling offenses committed during such period;

(6) one who has given false testimony for the purpose of obtaining any benefits under this Act;

(7) one who during such period has been confined, as a result of conviction, to a penal institution for an aggregate period of one hundred and eighty days or more, regardless of whether the offense, or offenses, for which he has been confined were committed within or without such period;

(8) one who at any time has been convicted of an aggravated felony (as defined in subsection (a)(43)).³⁷

The fact that any person is not within any of the foregoing classes shall not preclude a finding that for other reasons such person is or was not of good moral character.

(g) For the purposes of this Act any alien ordered deported (whether before or after the enactment of this Act) who has left the United States, shall be considered to have been deported in pursuance of law, irrespective of the source from which the expenses of his transportation were defrayed or of the place to which he departed.

(h)³⁸ For purposes of section 212(a)(2)(E), the term "serious criminal offense" means—

(1) any felony;

(2) any crime of violence, as defined in section 16 of title 18 of the United States Code; or

(3) any crime of reckless driving or of driving while intoxicated or under the influence of alcohol or of prohibited substances if such crime involves personal injury to another.

APPLICABILITY OF TITLE II TO CERTAIN NONIMMIGRANTS³⁹

SEC. 102. [8 U.S.C. 1102] Except as otherwise provided in this Act, for so long as they continue in the nonimmigrant classes enu-

³⁶ References to paragraphs (2)(D), (6)(E), and (9)(A) were substituted for references to paragraphs (11), (12), and (31), and references to subparagraphs (A) and (B) of section 212(a)(2) and subparagraph (C) thereof were substituted for references to paragraphs (9) and (10) of section 212(a) and paragraph (23) of such section, by § 603(a)(1) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5082).

³⁷ § 509(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5051) struck "crime of murder" and inserted "an aggravated felony..", effective on November 29, 1990, and applicable to convictions occurring on or after November 29, 1990.

³⁸ Subsection (h) was added by § 131(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Pub. L. 101-246, Feb. 16, 1990, 104 Stat. 31). § 603(a)(1)(C) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5082) substituted reference to section 212(a)(2)(E) for reference to section 212(a)(34).

³⁹ Section 7(a) of the International Organizations Immunities Act (22 U.S.C. 288d) provides officers and employees (and their families) of international organizations with the same privileges, exemptions, and immunities concerning entry and departure and alien registration and fingerprinting as those provided to officers and employees of foreign governments. In addition,

merated in this section, the provisions of this Act relating to ineligibility to receive visas and the exclusion or deportation of aliens shall not be construed to apply to nonimmigrants—

(1) within the class described in paragraph (15)(A)(i) of section 101(a), except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph (15)(A)(i), and, under such rules and regulations as the President may deem to be necessary, the provisions of subparagraphs (A) through (C) of section 212(a)(3);⁴⁰

(2) within the class described in paragraph (15)(G)(i) of section 101(a), except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph (15)(G)(i), and the provisions of subparagraphs (A) through (C) of section 212(a)(3);⁴⁰ and

(3) within the classes described in paragraphs (15)(A)(ii), (15)(G)(ii), (15)(G)(iii), or (15)(G)(iv) of section 101(a), except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraphs, and the provisions of subparagraphs (A) through (C) of section 212(a)(3).⁴⁰

POWERS AND DUTIES OF THE ATTORNEY GENERAL AND THE COMMISSIONER

SEC. 103. [8 U.S.C. 1103] (a) The Attorney General shall be charged with the administration and enforcement of this Act and all other laws relating to the immigration and naturalization of aliens, except insofar as this Act or such laws relate to the powers, functions, and duties conferred upon the President, the Secretary of State, the officers of the Department of State, or diplomatic or consular officers: *Provided, however,* That determination and ruling by the Attorney General with respect to all questions of law shall be controlling. He shall have control, direction, and supervision of all employees and of all the files and records of the Service. He shall establish such regulations; prescribe such forms of bond, reports, entries, and other papers; issue such instructions; and per-

⁴⁰407 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Pub. L. 101-246, Feb. 16, 1990, 104 Stat. 67) provides as follows:

SEC. 407. DENIAL OF VISAS TO CERTAIN REPRESENTATIVES TO THE UNITED NATIONS.

(a) **IN GENERAL.**—The President shall use his authority, including the authorities contained in section 6 of the United Nations Headquarters Agreement Act (Public Law 80-357), to deny any individual's admission to the United States as a representative to the United Nations if the President determines that such individual has been found to have been engaged in espionage activities directed against the United States or its allies and may pose a threat to United States national security interests.

(b) **WAIVER.**—The President may waive the provisions of subsection (a) if the President determines, and so notifies the Congress, that such a waiver is in the national security interests of the United States.

⁴⁰Section 307(i) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1756) substituted reference to "subparagraphs (A) through (C) of section 212(a)(3)" for reference to "paragraph (3) (other than subparagraph (E)) of section 212(a)".

form such other acts as he deems necessary for carrying out his authority under the provisions of this Act.⁴¹ He may require or authorize any employee of the Service or the Department of Justice to perform or exercise any of the powers, privileges, or duties conferred or imposed by this Act or regulations issued thereunder upon any other employee of the Service. He shall have the power and duty to control and guard the boundaries and borders of the United States against the illegal entry of aliens and shall, in his discretion, appoint for that purpose such number of employees of the Service as to him shall appear necessary and proper. He is authorized to confer or impose upon any employee of the United States, with the consent of the head of the Department or other independent establishment under whose jurisdiction the employee is serving, any of the powers, privileges, or duties conferred or imposed by this Act or regulations issued thereunder upon officers or employees of the Service. He may, with the concurrence of the Secretary of State, establish offices of the Service in foreign countries; and, after consultation with the Secretary of State, he may, whenever in his judgment such action may be necessary to accomplish the purposes of this Act, detail employees of the Service for duty in foreign countries.

(b) The Commissioner shall be a citizen of the United States and shall be appointed by the President, by and with the advice and consent of the Senate.⁴² He shall be charged with any and all responsibilities and authority in the administration of the Service and of this Act which are conferred upon the Attorney General as may be delegated to him by the Attorney General or which may be prescribed by the Attorney General.

(c)(1)⁴³ The Commissioner, in consultation with interested academicians, government agencies, and other parties, shall provide for a system for collection and dissemination, to Congress and the public, of information (not in individually identifiable form) useful in evaluating the social, economic, environmental, and demographic impact of immigration laws.

(2) Such information shall include information on the alien population in the United States, on the rates of naturalization and emigration of resident aliens, on aliens who have been admitted, paroled, or granted asylum, on nonimmigrants in the United States (by occupation, basis for admission, and duration of stay), on aliens who have been excluded or deported from the United States, on the number of applications filed and granted for suspension of deportation, and on the number of aliens estimated to be present unlawfully in the United States in each fiscal year.

(3) Such system shall provide for the collection and dissemination of such information not less often than annually.

(d)(1)⁴³ The Commissioner shall submit to Congress annually a report which contains a summary of the information collected

⁴¹The Attorney General is permitted to have up to 5,000 copies printed of the annual report of the Immigration and Naturalization Service, 44 U.S.C. 1322.

⁴²The compensation of the Commissioner of the Immigration and Naturalization Service is fixed at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

⁴³Subsections (c) and (d) were added by § 142 of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5004).

under subsection (c) and an analysis of trends in immigration and naturalization.

(2) Each annual report shall include information on the number, and rate of denial administratively, of applications for naturalization, for each district office of the Service and by national origin group.

POWERS AND DUTIES OF THE SECRETARY OF STATE

SEC. 104. [8 U.S.C. 1104] (a) The Secretary of State shall be charged with the administration and the enforcement of the provisions of this Act and all other immigration and nationality laws relating to (1) the powers, duties and functions of diplomatic and consular officers of the United States, except those powers, duties and functions conferred upon the consular officers relating to the granting or refusal of visas; (2) the powers, duties and functions of the Administrator; and (3) the determination of nationality of a person not in the United States. He shall establish such regulations; prescribe such forms of reports, entries and other papers; issue such instructions; and perform such other acts as he deems necessary for carrying out such provisions. He is authorized to confer or impose upon any employee of the United States, with the consent of the head of the department or independent establishment under whose jurisdiction the employee is serving, any of the powers, functions, or duties conferred or imposed by this Act or regulations issued thereunder upon officers or employees of the Department of State or of the American Foreign Service.

(b)^{43a} The Secretary of State shall designate an Administrator who shall be a citizen of the United States, qualified by experience. The Administrator shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this Act by consular officers. The Administrator shall be charged with any and all responsibility and authority in the administration of this Act which are conferred on the Secretary of State as may be delegated to the Administrator by the Secretary of State or which may be prescribed by the Secretary of State, and shall perform such other duties as the Secretary of State may prescribe.

(c) Within the Department of State there shall be a Passport Office, a Visa Office, and such other offices as the Secretary of State may deem to be appropriate, each office to be headed by a director. The Directors of the Passport Office and the Visa Office shall be experienced in the administration of the nationality and immigration laws.

(d) The functions heretofore performed by the Passport Division and the Visa Division of the Department of State shall hereafter be performed by the Passport Office and the Visa Office, respectively.

(e) There shall be a General Counsel of the Visa Office, who shall be appointed by the Secretary of State and who shall serve under the general direction of the Legal Adviser of the Department of State. The General Counsel shall have authority to maintain li-

^{43a} Subsection (b) was amended in its entirety by § 162(h)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (P.L. 103-236, 108 Stat. 407, Apr. 30, 1994).

aison with the appropriate officers of the Service with a view to securing uniform interpretations of the provisions of this Act.

LIAISON WITH INTERNAL SECURITY OFFICERS

SEC. 105. [8 U.S.C. 1105] The Commissioner and the Administrator shall have authority to maintain direct and continuous liaison with the Directors of the Federal Bureau of Investigation and the Central Intelligence Agency and with other internal security officers of the Government for the purpose of obtaining and exchanging information for use in enforcing the provisions of this Act in the interest of the internal security of the United States. The Commissioner and the Administrator shall maintain direct and continuous liaison with each other with a view to a coordinated, uniform, and efficient administration of this Act, and all other immigration and nationality laws.

JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION

SEC. 106. [8 U.S.C. 1105a] (a) The procedure prescribed by, and all the provisions of chapter 158 of title 28, United States Code, shall apply to, and shall be the sole and exclusive procedure for, the judicial review of all final orders of deportation heretofore or hereafter made against aliens within the United States pursuant to administrative proceedings under section 242(b) or pursuant to section 242A of this Act or comparable provisions of any prior Act, except that—

(1) a petition for review may be filed not later than 90 days after the date of the issuance of the final deportation order, or, in the case of an alien convicted of an aggravated felony (including an alien described in section 242A)^{43b}, not later than 30 days after the issuance of such order;⁴⁴

(2) the venue of any petition for review under this section shall be in the judicial circuit in which the administrative proceedings before a special inquiry officer were conducted in whole or in part, or in the judicial circuit wherein is the residence, as defined in this Act, of the petitioner, but not in more than one circuit;

(3) the action shall be brought against the Immigration and Naturalization Service, as respondent. Service of the petition to review shall be made upon the Attorney General of the United States and upon the official of the Immigration and Naturalization Service in charge of the Service district in which the office of the clerk of the court is located. The service of the petition for review upon such official of the Service shall

^{43b} The parenthetical phrase after "aggravated felony" in subsections (a)(1) and (a)(3) inserted by § 130003(b)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 2027, Sept. 13, 1994).

⁴⁴ Paragraph (1) was amended by § 7347(b) of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690, Nov. 18, 1988, 102 Stat. 4472), to require petitions for judicial review to be filed within 60 days in the case of aliens convicted of an aggravated felony, applicable in the case of any alien convicted of an aggravated felony on or after November 18, 1988. The paragraph was further amended by § 502(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5048) to shorten the 60 day period to 30 days, applicable to final deportation orders issued on or after January 1, 1991, and by § 545(b)(1) of that Act (104 Stat. 5065) to shorten the normal period to request judicial review from 6 months to 90 days, effective for final orders of deportation entered on or after January 1, 1991.

stay the deportation of the alien pending determination of the petition by the court, unless the court otherwise directs or unless⁴⁵ the alien is convicted of an aggravated felony (including an alien described in section 242A), in which case the Service shall not stay the deportation of the alien pending determination of the petition of the court unless the court otherwise directs;

(4) except as provided in clause (B) of paragraph (5) of this subsection, the petition shall be determined solely upon the administrative record upon which the deportation order is based and the Attorney General's findings of fact, if supported by reasonable, substantial, and probative evidence on the record considered as a whole, shall be conclusive;

(5) whenever any petitioner, who seeks review of an order under this section, claims to be a national of the United States and makes a showing that his claim is not frivolous, the court shall (A) pass upon the issues presented when it appears from the pleadings and affidavits filed by the parties that no genuine issue of material fact is presented; or (B) where a genuine issue of material fact as to the petitioner's nationality is presented, transfer the proceedings to a United States district court for the district where the petitioner has his residence for hearing de novo of the nationality claim and determination as if such proceedings were originally initiated in the district court under the provisions of section 2201 of title 28, United States Code. Any such petitioner shall not be entitled to have such issue determined under section 360(a) of this Act or otherwise;

(6)⁴⁶ whenever a petitioner seeks review of an order under this section, any review sought with respect to a motion to reopen or reconsider such an order shall be consolidated with the review of the order;

(7)⁴⁶ if the validity of a deportation order has not been judicially determined, its validity may be challenged in a criminal proceeding against the alien for violation of subsection (d) or (e) of section 242 of this Act only by separate motion for judicial review before trial. Such motion shall be determined by the court without a jury and before the trial of the general issue. Whenever a claim to United States nationality is made in such motion, and in the opinion of the court, a genuine issue of material fact as to the alien's nationality is presented, the court shall accord him a hearing de novo on the nationality claim and determine that issue as if proceedings had been initiated under the provisions of section 2201 of title 28, United States Code. Any such alien shall not be entitled to have such issue determined under section 360(a) of this Act or otherwise. If no such hearing de novo as to nationality is conducted, the determination shall be made solely upon the administrative

⁴⁵The phrase "or unless" and all that follows up to the semicolon at the end was inserted by § 513(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5052), effective for petitions to review filed on or after January 28, 1991.

⁴⁶Paragraph (6) was inserted (and paragraphs (6) through (9) redesignated as paragraphs (7) through (10)) by § 545(b) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5065), applicable to final orders of deportation entered on or after January 1, 1991.

record upon which the deportation order is based and the Attorney General's findings of fact, if supported by reasonable, substantial and probative evidence on the record considered as a whole, shall be conclusive. If the deportation order is held invalid, the court shall dismiss the indictment and the United States shall have the right to appeal to the court of appeals within thirty days. The procedure on such appeals shall be as provided in the Federal rules of criminal procedure. No petition for review under this section may be filed by any alien during the pendency of a criminal proceeding against such alien for violation of subsection (d) or (e) of section 242 of this Act;

(8)⁴⁶ nothing in this section shall be construed to require the Attorney General to defer deportation of an alien after the issuance of a deportation order because of the right of judicial review of the order granted by this section, or to relieve any alien from compliance with subsections (d) and (e) of section 242 of this Act. Nothing contained in this section shall be construed to preclude the Attorney General from detaining or continuing to detain an alien or from taking him into custody pursuant to subsection (c) of section 242 of this Act at any time after the issuance of a deportation order;

(9)⁴⁶ it shall not be necessary to print the record or any part thereof, or the briefs, and the court shall review the proceedings on a typewritten record and on typewritten briefs; and

(10)⁴⁶ any alien held in custody pursuant to an order of deportation may obtain judicial review thereof by habeas corpus proceedings.

(b) Notwithstanding the provisions of any other law, any alien against whom a final order of exclusion has been made heretofore or hereafter under the provisions of section 236 of this Act or comparable provisions of any prior Act may obtain judicial review of such order by habeas corpus proceedings and not otherwise.

(c) An order of deportation or of exclusion shall not be reviewed by any court if the alien has not exhausted the administrative remedies available to him as of right under the immigration laws and regulations or if he has departed from the United States after the issuance of the order. Every petition for review or for habeas corpus shall state whether the validity of the order has been upheld in any prior judicial proceeding, and, if so, the nature and date thereof, and the court in which such proceeding took place. No petition for review or for habeas corpus shall be entertained if the validity of the order has been previously determined in any civil or criminal proceeding, unless the petition presents grounds which the court finds could not have been presented in such prior proceeding, or the court finds that the remedy provided by such prior proceeding was inadequate or ineffective to test the validity of the order.

(d)(1)^{46a} A petition for review or for habeas corpus on behalf of an alien against whom a final order of deportation has been issued pursuant to section 242A(b) may challenge only—

NOTE.—See footnote 46 on previous page.

^{46a} Subsection (d) was added by § 130004(b)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 2027, Sept. 13, 1994); paragraph (1) was amended

(A) whether the alien is in fact the alien described in the order;

(B) whether the alien is in fact an alien described in section 242A(b)(2);

(C) whether the alien has been convicted of an aggravated felony and such conviction has become final; and

(D) whether the alien was afforded the procedures required by section 242A(b)(4).

(2) No court shall have jurisdiction to review any issue other than an issue described in paragraph (1).

TITLE II—IMMIGRATION

CHAPTER 1—SELECTION SYSTEM

WORLDWIDE LEVEL OF IMMIGRATION⁴⁷

SEC. 201. [8 U.S.C. 1151] (a) IN GENERAL.—Exclusive of aliens described in subsection (b), aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

(1) family-sponsored immigrants described in section 203(a) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a)) in a number not to exceed in any fiscal year the number specified in subsection (c) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year;

(2) employment-based immigrants described in section 203(b) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b)), in a number not to exceed in any fiscal year the number specified in subsection (d) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year; and

(3) for fiscal years beginning with fiscal year 1995, diversity immigrants described in section 203(c) (or who are admit-

by § 223(b) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4322, Oct. 25, 1994) by striking “242A(b)(5)” and inserting “242A(b)(4)”.

⁴⁷ This section was amended in its entirety by § 101(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 4980), effective October 1, 1991. For § 201 as in effect before such date, see Appendix II.A.2. The section was further amended by § 302(a)(1) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1742).

The following are among the provisions that waive the numerical limitations under this section and section 202: (1) §§ 210(c)(1) and 245A(d)(1) of the INA; (2) §§ 202(e), 203(c), & 314 of the Immigration Reform and Control Act of 1986, in Appendix II.B.1.; (3) § 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, in Appendix II.D.; (4) § 3 of the Immigration Amendments of 1988 (Pub. L. 100-658, Nov. 15, 1988, 102 Stat. 3908), in Appendix II.F.; (5) § 2 of the Immigration Nursing Relief Act of 1989 (Pub. L. 101-238, Dec. 18, 1989), in Appendix II.I.; (6) §§ 124, 132-134 of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 4986, 5000), in Appendix II.A.1.; (7) § 19 of The Immigration and Nationality Amendments Act of 1981 (Pub. L. 97-116, Dec. 29, 1981, 95 Stat. 1621) (relating to aliens in the United States who were classified as nonpreference investors before June 1, 1978); and (8) § 2(c)(1) of the Virgin Islands Nonimmigrant Alien Adjustment Act of 1982 (Pub. L. 97-271, Sept. 30, 1982, 96 Stat. 1158), in Appendix IV.D.

ted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(c)) in a number not to exceed in any fiscal year the number specified in subsection (e) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year.

(b) **ALIENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATIONS.**—Aliens described in this subsection, who are not subject to the worldwide levels or numerical limitations of subsection (a), are as follows:

(1)(A) Special immigrants described in subparagraph (A) or (B) of section 101(a)(27).

(B) Aliens who are admitted under section 207 or whose status is adjusted under section 209.

(C) Aliens whose status is adjusted to permanent residence under section 210, 210A, or 245A.

(D) Aliens whose deportation is suspended under section 244(a).

(E) Aliens provided permanent resident status under section 249.

(2)(A)(i) **IMMEDIATE RELATIVES.**—For purposes of this subsection, the term “immediate relatives” means the children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such citizens shall be at least 21 years of age. In the case of an alien who was the spouse of a citizen of the United States for at least 2 years at the time of the citizen’s death and was not legally separated from the citizen at the time of the citizen’s death, the alien (and each child of the alien)^{47a} shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen’s death but only if the spouse files a petition under section 204(a)(1)(A)(ii) within 2 years after such date and only until the date the spouse remarries.⁴⁸

(ii) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative.

(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.

(c) **WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.**—(1)(A) The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is, subject to subparagraph (B), equal to—

(i) 480,000, minus

(ii) the number computed under paragraph (2), plus

(iii) the number (if any) computed under paragraph (3).

^{47a} The parenthetical phrase was inserted by §219(b)(1) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4316, Oct. 25, 1994), effective under §219(dd) of that Act as if included in the enactment of the Immigration Act of 1990.

⁴⁸ §101(c) of the Immigration Act of 1990, as added by §301(a)(2) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1742) provides as follows:

(c) **TRANSITION.**—In applying the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (as amended by subsection (a)) in the case of an alien whose citizen spouse died before the date of the enactment of this Act [viz., November 29, 1990], notwithstanding the deadline specified in such sentence the alien spouse may file the classification petition referred to in such sentence within 2 years after the date of the enactment of this Act.

(B)(i) For each of fiscal years 1992, 1993, and 1994, 465,000 shall be substituted for 480,000 in subparagraph (A)(i).

(ii) In no case shall the number computed under subparagraph (A) be less than 226,000.

(2) The number computed under this paragraph for a fiscal year is the sum of the number of aliens described in subparagraphs (A) and (B) of subsection (b)(2) who were issued immigrant visas or who otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence in the previous fiscal year.

(3)(A) The number computed under this paragraph for fiscal year 1992 is zero.

(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(a) during that fiscal year.

(C) The number computed under this paragraph for a subsequent fiscal year is the difference (if any) between the maximum number of visas which may be issued under section 203(b) (relating to employment-based immigrants) during the previous fiscal year and the number of visas issued under that section during that year.

(d) **WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—**

(1) The worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to—

(A) 140,000, plus

(B) the number computed under paragraph (2).

(2)(A) The number computed under this paragraph for fiscal year 1992 is zero.

(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(b) during that fiscal year.

(C) The number computed under this paragraph for a subsequent fiscal year is the difference (if any) between the maximum number of visas which may be issued under section 203(a) (relating to family-sponsored immigrants) during the previous fiscal year and the number of visas issued under that section during that year.

(e) **WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS.—**The worldwide level of diversity immigrants is equal to 55,000 for each fiscal year.

NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE ⁴⁷

SEC. 202. [8 U.S.C. 1152] (a) ⁴⁹ PER COUNTRY LEVEL.—

(1) **NONDISCRIMINATION.—**Except as specifically provided in paragraph (2) and in sections 101(a)(27), 201(b)(2)(A)(i), and 203, no person shall receive any preference or priority or be discriminated against in the issuance of an immigrant visa be-

⁴⁹ Subsection (a) was amended in its entirety by § 102(1) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 4982), effective October 1, 1991. For subsection as previously in effect, see Appendix II.A.2.

NOTE.—See footnote 47 on p. 33.

cause of the person's race, sex, nationality, place of birth, or place of residence.

(2) **PER COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.**—Subject to paragraphs (3) and (4), the total number of immigrant visas made available to natives of any single foreign state or dependent area under subsections (a) and (b) of section 203 in any fiscal year may not exceed 7 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas made available under such subsections in that fiscal year.

(3) **EXCEPTION IF ADDITIONAL VISAS AVAILABLE.**—If because of the application of paragraph (2) with respect to one or more foreign states or dependent areas, the total number of visas available under both subsections (a) and (b) of section 203 for a calendar quarter exceeds the number of qualified immigrants who otherwise may be issued such a visa, paragraph (2) shall not apply to visas made available to such states or areas during the remainder of such calendar quarter.

(4) **SPECIAL RULES FOR SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENT ALIENS.**—

(A) **75 PERCENT OF 2ND PREFERENCE SET-ASIDE FOR SPOUSES AND CHILDREN NOT SUBJECT TO PER COUNTRY LIMITATION.**—

(i) **IN GENERAL.**—Of the visa numbers made available under section 203(a) to immigrants described in section 203(a)(2)(A) in any fiscal year, 75 percent of the 2-A floor (as defined in clause (ii)) shall be issued without regard to the numerical limitation under paragraph (2).

(ii) **2-A FLOOR DEFINED.**—In this paragraph, the term “2-A floor” means, for a fiscal year, 77 percent of the total number of visas made available under section 203(a) to immigrants described in section 203(a)(2) in the fiscal year.

(B) **TREATMENT OF REMAINING 25 PERCENT FOR COUNTRIES SUBJECT TO SUBSECTION (e).**—

(i) **IN GENERAL.**—Of the visa numbers made available under section 203(a) to immigrants described in section 203(a)(2)(A) in any fiscal year, the remaining 25 percent of the 2-A floor shall be available in the case of a state or area that is subject to subsection (e) only to the extent that the total number of visas issued in accordance with subparagraph (A) to natives of the foreign state or area is less than the subsection (e) ceiling (as defined in clause (ii)).

(ii) **SUBSECTION (e) CEILING DEFINED.**—In clause (i), the term “subsection (e) ceiling” means, for a foreign state or dependent area, 77 percent of the maximum number of visas that may be made available under section 203(a) to immigrants who are natives of the state or area under section 203(a)(2) consistent with subsection (e).

(C) TREATMENT OF UNMARRIED SONS AND DAUGHTERS IN COUNTRIES SUBJECT TO SUBSECTION (e).—In the case of a foreign state or dependent area to which subsection (e) applies, the number of immigrant visas that may be made available to natives of the state or area under section 203(a)(2)(B) may not exceed—

(i) 23 percent of the maximum number of visas that may be made available under section 203(a) to immigrants of the state or area described in section 203(a)(2) consistent with subsection (e), or

(ii) the number (if any) by which the maximum number of visas that may be made available under section 203(a) to immigrants of the state or area described in section 203(a)(2) consistent with subsection (e) exceeds the number of visas issued under section 203(a)(2)(A),

whichever is greater.

(D) LIMITING PASS DOWN FOR CERTAIN COUNTRIES SUBJECT TO SUBSECTION (e).—In the case of a foreign state or dependent area to which subsection (e) applies, if the total number of visas issued under section 203(a)(2) exceeds the maximum number of visas that may be made available to immigrants of the state or area under section 203(a)(2) consistent with subsection (e) (determined without regard to this paragraph), in applying paragraphs (3) and (4) of section 203(a) under subsection (e)(2) all visas shall be deemed to have been required for the classes specified in paragraphs (1) and (2) of such section.

(b) RULES FOR CHARGEABILITY.—Each independent country, self-governing dominion, mandated territory, and territory under the international trusteeship system of the United Nations, other than the United States and its outlying possessions, shall be treated as a separate foreign state for the purposes of a numerical level established under subsection (a)(2) when approved by the Secretary of State.⁵⁰ All other inhabited lands shall be attributed to a foreign state specified by the Secretary of State. For the purposes of this Act the foreign state to which an immigrant is chargeable shall be

⁵⁰ § 714 of the International Security and Development Cooperation Act of 1981 (Pub. L. 97-113) provides as follows:

IMMIGRANT VISAS FOR TAIWAN¹

SEC. 714. The approval referred to in the first sentence of section 202(b) of the Immigration and Nationality Act shall be considered to have been granted with respect to Taiwan (China).

On Apr. 30, 1979, the Department of State made a final ruling whereby 22 CFR Part 42 was amended effective Apr. 23, 1979, to provide that aliens in Taiwan applying for immigrant visas shall be required to appear personally before a designated officer of the American Institute in Taiwan in connection with the execution of his immigrant visa application. This ruling, which was made pursuant to the authority contained in section 104 of the Immigration and Nationality Act, can be found at 44 F.R. 28659, May 16, 1979.

§ 103 of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 4985) provides as follows:

SEC. 103. TREATMENT OF HONG KONG UNDER PER COUNTRY LEVELS.

The approval referred to in the first sentence of section 202(b) of the Immigration and Nationality Act shall be considered to have been granted, effective beginning with fiscal year 1991, with respect to Hong Kong as a separate foreign state, and not as a colony or other component or dependent area of another foreign state, except that the total number of immigrant visas made available to natives of Hong Kong under subsections (a) and (b) of section 203 of such Act in each of fiscal years 1991, 1992, and 1993 may not exceed 10,000.

determined by birth within such foreign state except that (1) an alien child, when accompanied by or following to join his alien parent or parents, may be charged to the foreign state of either parent if such parent has received or would be qualified for an immigrant visa, if necessary to prevent the separation of the child from the parent or parents, and if immigration charged to the foreign state to which such parent has been or would be chargeable has not reached a numerical level established under subsection (a)(2) for that fiscal year; (2) if an alien is chargeable to a different foreign state from that of his spouse, the foreign state to which such alien is chargeable may, if necessary to prevent the separation of husband and wife, be determined by the foreign state of the spouse he is accompanying or following to join, if such spouse has received or would be qualified for an immigrant visa and if immigration charged to the foreign state to which such spouse has been or would be chargeable has not reached a numerical level established under subsection (a)(2) for that fiscal year; (3) an alien born in the United States shall be considered as having been born in the country of which he is a citizen or subject, or, if he is not a citizen or subject of any country, in the last foreign country in which he had his residence as determined by the consular officer; and (4) an alien born within any foreign state in which neither of his parents was born and in which neither of his parents had a residence at the time of such alien's birth may be charged to the foreign state of either parent.

(c) **CHARGEABILITY FOR DEPENDENT AREAS.**—Any immigrant born in a colony or other component or dependent area of a foreign state overseas from the foreign state, other than an alien described in section 201(b), shall be chargeable for the purpose of the limitation set forth in subsection (a), to the foreign state.

(d) **CHANGES IN TERRITORY.**—In the case of any change in the territorial limits of foreign states, the Secretary of State shall, upon recognition of such change, issue appropriate instructions to all diplomatic and consular offices.

(e) ⁵¹ **SPECIAL RULES FOR COUNTRIES AT CEILING.**—If it is determined that the total number of immigrant visas made available under subsections (a) and (b) of section 203 to natives of any single foreign state or dependent area will exceed the numerical limitation specified in subsection (a)(2) in any fiscal year, in determining the allotment of immigrant visa numbers to natives under subsections (a) and (b) of section 203, visa numbers with respect to natives of that state or area shall be allocated (to the extent practicable and otherwise consistent with this section and section 203) in a manner so that—

(1) the ratio of the visa numbers made available under section 203(a) to the visa numbers made available under section 203(b) is equal to the ratio of the worldwide level of immigration under section 201(c) to such level under section 201(d);

(2) except as provided in subsection (a)(4), the proportion of the visa numbers made available under each of paragraphs (1) through (4) of section 203(a) is equal to the ratio of the total

⁵¹ Subsection (e) was amended in its entirety by § 102(5) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 4984), effective October 1, 1991. For subsection as in effect before such date, see Appendix II.A.2.

number of visas made available under the respective paragraph to the total number of visas made available under section 203(a), and

(3) the proportion of the visa numbers made available under each of paragraphs (1) through (5) of section 203(b) is equal to the ratio of the total number of visas made available under the respective paragraph to the total number of visas made available under section 203(b).

Nothing in this subsection shall be construed as limiting the number of visas that may be issued to natives of a foreign state or dependent area under section 203(a) or 203(b) if there is insufficient demand for visas for such natives under section 203(b) or 203(a), respectively, or as limiting the number of visas that may be issued under section 203(a)(2)(A) pursuant to subsection (a)(4)(A).

ALLOCATION OF IMMIGRANT VISAS

SEC. 203. [8 U.S.C. 1153] (a)⁵² PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allotted visas as follows:

(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a number not to exceed 23,400, plus any visas not required for the class specified in paragraph (4).

(2)⁵³ SPOUSES AND UNMARRIED SONS AND UNMARRIED DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Qualified immigrants—

(A) who are the spouses or children of an alien lawfully admitted for permanent residence, or

(B) who are the unmarried sons or unmarried daughters (but are not the children) of an alien lawfully admitted for permanent residence,

shall be allocated visas in a number not to exceed 114,200, plus the number (if any) by which such worldwide level exceeds 226,000, plus any visas not required for the class specified in paragraph (1); except that not less than 77 percent of such visa numbers shall be allocated to aliens described in subparagraph (A).

(3) MARRIED SONS AND MARRIED DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed 23,400, plus any visas not required for the classes specified in paragraphs (1) and (2).

(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, shall be al-

⁵² Subsection (a) was amended in its entirety by § 111(2) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 4986), effective October 1, 1991. For subsection (a) as in effect before such date, see Appendix II.A.2.

⁵³ Note that 55,000 additional immigrant visa numbers were made available in each of fiscal years 1992, 1993, and 1994 to spouses and children of eligible, legalized aliens under § 112 of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 4987), shown in Appendix II.A.1.

located visas in a number not to exceed 65,000, plus any visas not required for the classes specified in paragraphs (1) through (3).

(b)⁵⁴ PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(d) for employment-based immigrants in a fiscal year shall be allotted visas as follows:

(1) PRIORITY WORKERS.—Visas shall first be made available in a number not to exceed 28.6 percent of such worldwide level, plus any visas not required for the classes specified in paragraphs (4) and (5), to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) ALIENS WITH EXTRAORDINARY ABILITY.—An alien is described in this subparagraph if—

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

(B) OUTSTANDING PROFESSORS AND RESEARCHERS.—An alien is described in this subparagraph if—

(i) the alien is recognized internationally as outstanding in a specific academic area,

(ii) the alien has at least 3 years of experience in teaching or research in the academic area, and

(iii) the alien seeks to enter the United States—

(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area,

(II) for a comparable position with a university or institution of higher education to conduct research in the area, or

(III) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

(C) CERTAIN MULTINATIONAL EXECUTIVES AND MANAGERS.—An alien is described in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity

⁵⁴ Subsection (b) was inserted by § 121(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 4987), effective October 1, 1991, and was amended by § 302(b)(2) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1743).

or an affiliate or subsidiary thereof and the alien seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

(2) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING ADVANCED DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—

(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 28.6 percent of such worldwide level, plus any visas not required for the classes specified in paragraph (1), to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

(B) WAIVER OF JOB OFFER.—The Attorney General may, when he deems it to be in the national interest, waive the requirement of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

(C) DETERMINATION OF EXCEPTIONAL ABILITY.—In determining under subparagraph (A) whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning or a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

(3) SKILLED WORKERS, PROFESSIONALS, AND OTHER WORKERS.—

(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 28.6 percent of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) and (2), to the following classes of aliens who are not described in paragraph (2):

(i) SKILLED WORKERS.—Qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing skilled labor (requiring at least 2 years training or experience), not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

(ii) PROFESSIONALS.—Qualified immigrants who hold baccalaureate degrees and who are members of the professions.

(iii) OTHER WORKERS.—Other qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

(B) LIMITATION ON OTHER WORKERS.—Not more than 10,000 of the visas made available under this paragraph in

any fiscal year may be available for qualified immigrants described in subparagraph (A)(iii).

(C) LABOR CERTIFICATION REQUIRED.—An immigrant visa may not be issued to an immigrant under subparagraph (A) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(5)(A).

(4) CERTAIN SPECIAL IMMIGRANTS.—Visas shall be made available, in a number not to exceed 7.1 percent of such worldwide level, to qualified special immigrants described in section 101(a)(27) (other than those described in subparagraph (A) or (B) thereof), of which not more than 5,000 may be made available in any fiscal year to special immigrants described in subclause (II) or (III) of section 101(a)(27)(C)(ii).

(5) EMPLOYMENT CREATION.—^{54a}

(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 7.1 percent of such worldwide level, to qualified immigrants seeking to enter the United States for the purpose of engaging in a new commercial enterprise—

(i) which the alien has established,

(ii) in which such alien has invested (after the date of the enactment of the Immigration Act of 1990) or, is actively in the process of investing, capital in an amount not less than the amount specified in subparagraph (C), and

(iii) which will benefit the United States economy and create full-time employment for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the immigrant and the immigrant's spouse, sons, or daughters).

(B) SET-ASIDE FOR TARGETED EMPLOYMENT AREAS.—

(i) IN GENERAL.—Not less than 3,000 of the visas made available under this paragraph in each fiscal year shall be reserved for qualified immigrants who establish a new commercial enterprise described in

^{54a} Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (Pub. L. 102-395, Oct. 6, 1992, 106 Stat. 1874) provides as follows:

SEC. 610. PILOT IMMIGRATION PROGRAM.—(a) Of the visas otherwise available under section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)), the Secretary of State, together with the Attorney General, shall set aside visas for a pilot program to implement the provisions of such section. Such pilot program shall involve a regional center in the United States for the promotion of economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment.

(b) For purposes of the pilot program established in subsection (a), beginning on October 1, 1992, but no later than October 1, 1993, the Secretary of State, together with the Attorney General, shall set aside 300 visas annually for five years to include such aliens as are eligible for admission under section 203(b)(5) of the Immigration and Nationality Act and this section, as well as spouses or children which are eligible, under the terms of the Immigration and Nationality Act, to accompany or follow to join such aliens.

(c) In determining compliance with section 203(b)(5)(A)(iii) of the Immigration and Nationality Act, and notwithstanding the requirements of 8 CFR 204.6, the Attorney General shall permit aliens admitted under the pilot program described in this section to establish reasonable methodologies for determining the number of jobs created by the pilot program, including such jobs which are estimated to have been created indirectly through revenues generated from increased exports resulting from the pilot program.

subparagraph (A) which will create employment in a targeted employment area.

(ii) TARGETED EMPLOYMENT AREA DEFINED.—In this paragraph, the term “targeted employment area” means, at the time of the investment, a rural area or an area which has experienced high unemployment (of at least 150 percent of the national average rate).

(iii) RURAL AREA DEFINED.—In this paragraph, the term “rural area” means any area other than an area within a metropolitan statistical area or within the outer boundary of any city or town having a population of 20,000 or more (based on the most recent decennial census of the United States).

(C) AMOUNT OF CAPITAL REQUIRED.—

(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the amount of capital required under subparagraph (A) shall be \$1,000,000. The Attorney General, in consultation with the Secretary of Labor and the Secretary of State, may from time to time prescribe regulations increasing the dollar amount specified under the previous sentence.

(ii) ADJUSTMENT FOR TARGETED EMPLOYMENT AREAS.—The Attorney General may, in the case of investment made in a targeted employment area, specify an amount of capital required under subparagraph (A) that is less than (but not less than $\frac{1}{2}$ of) the amount specified in clause (i).

(iii) ADJUSTMENT FOR HIGH EMPLOYMENT AREAS.—In the case of an investment made in a part of a metropolitan statistical area that at the time of the investment—

(I) is not a targeted employment area, and

(II) is an area with an unemployment rate significantly below the national average unemployment rate,

the Attorney General may specify an amount of capital required under subparagraph (A) that is greater than (but not greater than 3 times) the amount specified in clause (i).

(6)⁵⁵ SPECIAL RULES FOR “K” SPECIAL IMMIGRANTS.—

(A) NOT COUNTED AGAINST NUMERICAL LIMITATION IN YEAR INVOLVED.—Subject to subparagraph (B), the number of immigrant visas made available to special immigrants under section 101(a)(27)(K) in a fiscal year shall not be subject to the numerical limitations of this subsection or of section 202(a).

(B) COUNTED AGAINST NUMERICAL LIMITATIONS IN FOLLOWING YEAR.—

(i) REDUCTION IN EMPLOYMENT-BASED IMMIGRANT CLASSIFICATIONS.—The number of visas made available in any fiscal year under paragraphs (1), (2), and

⁵⁵ Paragraph (6) was added by § 2(b) of the Armed Forces Immigration Adjustment Act of 1991 (P.L. 102-110, Oct. 1, 1991, 105 Stat. 555), effective December 1, 1991.

(3) shall each be reduced by $\frac{1}{3}$ of the number of visas made available in the previous fiscal year to special immigrants described in section 101(a)(27)(K).

(ii) **REDUCTION IN PER COUNTRY LEVEL.**—The number of visas made available in each fiscal year to natives of a foreign state under section 202(a) shall be reduced by the number of visas made available in the previous fiscal year to special immigrants described in section 101(a)(27)(K) who are natives of the foreign state.

(iii) **REDUCTION IN EMPLOYMENT-BASED IMMIGRANT CLASSIFICATIONS WITHIN PER COUNTRY CEILING.**—In the case of a foreign state subject to section 202(e) in a fiscal year (and in the previous fiscal year), the number of visas made available and allocated to each of paragraphs (1) through (3) of this subsection in the fiscal year shall be reduced by $\frac{1}{3}$ of the number of visas made available in the previous fiscal year to special immigrants described in section 101(a)(27)(K) who are natives of the foreign state.

【Subparagraph (C) was stricken by § 212(b) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103–416, 108 Stat. 4314, Oct. 25, 1994).】

(c) ⁵⁶ **DIVERSITY IMMIGRANTS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), aliens subject to the worldwide level specified in section 201(e) for diversity immigrants shall be allotted visas each fiscal year as follows:

(A) **DETERMINATION OF PREFERENCE IMMIGRATION.**—The Attorney General shall determine for the most recent previous 5-fiscal-year period for which data are available, the total number of aliens who are natives of each foreign state and who (i) were admitted or otherwise provided lawful permanent resident status (other than under this subsection) and (ii) were subject to the numerical limitations of section 201(a) (other than paragraph (3) thereof) or who were admitted or otherwise provided lawful permanent resident status as an immediate relative or other alien described in section 201(b)(2).

(B) **IDENTIFICATION OF HIGH-ADMISSION AND LOW-ADMISSION REGIONS AND HIGH-ADMISSION AND LOW-ADMISSION STATES.**—The Attorney General—

(i) shall identify—

(I) each region (each in this paragraph referred to as a “high-admission region”) for which the total of the numbers determined under subparagraph (A) for states in the region is greater than $\frac{1}{6}$ of the total of all such numbers, and

⁵⁶ Subsection (c) was inserted by § 131 of the Immigration Act of 1990 (P.L. 101–649, Nov. 29, 1990, 104 Stat. 4997), effective October 1, 1991. For recent predecessors to this diversity program, see section 314 of the Immigration Reform and Control Act of 1986 (in Appendix II.B.1.), section 3 of the Immigration Amendments of 1990 (in Appendix II.F.), and sections 132, 133, and 134 of the Immigration Act of 1990 (in Appendix II.A.1.).

(II) each other region (each in this paragraph referred to as a "low-admission region"); and
(ii) shall identify—

(I) each foreign state for which the number determined under subparagraph (A) is greater than 50,000 (each such state in this paragraph referred to as a "high-admission state"), and

(II) each other foreign state (each such state in this paragraph referred to as a "low-admission state").

(C) DETERMINATION OF PERCENTAGE OF WORLDWIDE IMMIGRATION ATTRIBUTABLE TO HIGH-ADMISSION REGIONS.—The Attorney General shall determine the percentage of the total of the numbers determined under subparagraph (A) that are numbers for foreign states in high-admission regions.

(D) DETERMINATION OF REGIONAL POPULATIONS EXCLUDING HIGH-ADMISSION STATES AND RATIOS OF POPULATIONS OF REGIONS WITHIN LOW-ADMISSION REGIONS AND HIGH-ADMISSION REGIONS.—The Attorney General shall determine—

(i) based on available estimates for each region, the total population of each region not including the population of any high-admission state;

(ii) for each low-admission region, the ratio of the population of the region determined under clause (i) to the total of the populations determined under such clause for all the low-admission regions; and

(iii) for each high-admission region, the ratio of the population of the region determined under clause (i) to the total of the populations determined under such clause for all the high-admission regions.

(E) DISTRIBUTION OF VISAS.—

(i) NO VISAS FOR NATIVES OF HIGH-ADMISSION STATES.—The percentage of visas made available under this paragraph to natives of a high-admission state is 0.

(ii) FOR LOW-ADMISSION STATES IN LOW-ADMISSION REGIONS.—Subject to clauses (iv) and (v), the percentage of visas made available under this paragraph to natives (other than natives of a high-admission state) in a low-admission region is the product of—

(I) the percentage determined under subparagraph (C), and

(II) the population ratio for that region determined under subparagraph (D)(ii).

(iii) FOR LOW-ADMISSION STATES IN HIGH-ADMISSION REGIONS.—Subject to clauses (iv) and (v), the percentage of visas made available under this paragraph to natives (other than natives of a high-admission state) in a high-admission region is the product of—

(I) 100 percent minus the percentage determined under subparagraph (C), and

(II) the population ratio for that region determined under subparagraph (D)(iii).

(iv) REDISTRIBUTION OF UNUSED VISA NUMBERS.—If the Secretary of State estimates that the number of immigrant visas to be issued to natives in any region for a fiscal year under this paragraph is less than the number of immigrant visas made available to such natives under this paragraph for the fiscal year, subject to clause (v), the excess visa numbers shall be made available to natives (other than natives of a high-admission state) of the other regions in proportion to the percentages otherwise specified in clauses (ii) and (iii).

(v) LIMITATION ON VISAS FOR NATIVES OF A SINGLE FOREIGN STATE.—The percentage of visas made available under this paragraph to natives of any single foreign state for any fiscal year shall not exceed 7 percent.

(F) REGION DEFINED.—Only for purposes of administering the diversity program under this subsection, Northern Ireland shall be treated as a separate foreign state, each colony or other component or dependent area of a foreign state overseas from the foreign state shall be treated as part of the foreign state, and the areas described in each of the following clauses shall be considered to be a separate region:

- (i) Africa.
- (ii) Asia.
- (iii) Europe.
- (iv) North America (other than Mexico).
- (v) Oceania.
- (vi) South America, Mexico, Central America, and the Caribbean.

(2) REQUIREMENT OF EDUCATION OR WORK EXPERIENCE.—An alien is not eligible for a visa under this subsection unless the alien—

(A) has at least a high school education or its equivalent, or

(B) has, within 5 years of the date of application for a visa under this subsection, at least 2 years of work experience in an occupation which requires at least 2 years of training or experience.

(3) MAINTENANCE OF INFORMATION.—The Secretary of State shall maintain information on the age, occupation, education level, and other relevant characteristics of immigrants issued visas under this subsection.

(d)⁵⁷ TREATMENT OF FAMILY MEMBERS.—A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a), (b), or (c), be entitled to the same status, and the same order of consideration pro-

⁵⁷ Subsections (d) through (g) were inserted by § 162(a)(1) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5009), effective October 1, 1991. For previous corresponding subsections (b) through (d) of section 203, see Appendix II.A.2.

vided in the respective subsection, if accompanying or following to join, the spouse or parent.

(e)^{57 58} ORDER OF CONSIDERATION.—(1) Immigrant visas made available under subsection (a) or (b) shall be issued to eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General (or in the case of special immigrants under section 101(a)(27)(D), with the Secretary of State) as provided in section 204(a).

(2) Immigrant visa numbers made available under subsection (c) (relating to diversity immigrants) shall be issued to eligible qualified immigrants strictly in a random order established by the Secretary of State for the fiscal year involved.

(3) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.

(f)⁵⁷ AUTHORIZATION FOR ISSUANCE.— In the case of any alien claiming in his application for an immigrant visa to be described in section 201(b)(2) or in subsection (a), (b), or (c) of this section, the consular officer shall not grant such status until he has been authorized to do so as provided by section 204.

(g)⁵⁷ LISTS.—For purposes of carrying out the Secretary's responsibilities in the orderly administration of this section, the Secretary of State may make reasonable estimates of the anticipated numbers of visas to be issued during any quarter of any fiscal year within each of the categories under subsections (a), (b), and (c) and to rely upon such estimates in authorizing the issuance of visas. The Secretary of State shall terminate the registration of any alien who fails to apply for an immigrant visa within one year following notification to the alien of the availability of such visa, but the Secretary shall reinstate the registration of any such alien who establishes within 2 years following the date of notification of the availability of such visa that such failure to apply was due to circumstances beyond the alien's control.

PROCEDURE FOR GRANTING IMMIGRANT STATUS

SEC. 204. [8 U.S.C. 1154] (a)(1)(A)(i)⁵⁹ Any citizen of the United States claiming that an alien is entitled to classification by reason of a relationship described in paragraph (1), (3), or (4) of section 203(a) or to an immediate relative status under section 201(b)(2)(A)(i) may file a petition with the Attorney General for such classification.

(ii) An alien spouse^{59a} described in the second sentence of section 201(b)(2)(A)(i) also may file a petition with the Attorney Gen-

⁵⁸ § 155 of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5007), shown in Appendix II.A.1., provides for the expedited issuance of Lebanese second and fifth preference visas in fiscal years 1991 and 1992.

⁵⁹ Paragraph (1) was amended in its entirety by § 162(b)(1) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5010), effective for visas for fiscal years beginning with fiscal year 1992, under § 161(b)(9) of such Act (104 Stat. 5008).

^{59a} The phrases "spouse" and "of the alien (and the alien's children)" were inserted in the second sentence (now clause (ii)) by § 219(b)(2) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4316, Oct. 25, 1994), effective under § 219(dd) of that Act as if included in the enactment of the Immigration Act of 1990.

NOTE.—See footnote 57 on previous page.

eral under this subparagraph for classification of the alien (and the alien's children)^{59a} under such section.

(iii)^{59b} An alien who is the spouse of a citizen of the United States, who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who has resided in the United States with the alien's spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien if such a child has not been classified under clause (iv)) under such section if the alien demonstrates to the Attorney General that—

(I) the alien is residing in the United States, the marriage between the alien and the spouse was entered into in good faith by the alien, and during the marriage the alien or a child of the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's spouse; and

(II) the alien is a person whose deportation, in the opinion of the Attorney General, would result in extreme hardship to the alien or a child of the alien.

(iv)^{59b} An alien who is the child of a citizen of the United States, who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who has resided in the United States with the citizen parent may file a petition with the Attorney General under this subparagraph for classification of the alien under such section if the alien demonstrates to the Attorney General that—

(I) the alien is residing in the United States and during the period of residence with the citizen parent the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's citizen parent; and

(II) the alien is a person whose deportation, in the opinion of the Attorney General, would result in extreme hardship to the alien.

(B)(i) Any alien lawfully admitted for permanent residence claiming that an alien is entitled to a classification by reason of the relationship described in section 203(a)(2) may file a petition with the Attorney General for such classification.

(ii)^{59c} An alien who is the spouse of an alien lawfully admitted for permanent residence, who is a person of good moral character, who is eligible for classification under section 203(a)(2)(A), and who has resided in the United States with the alien's legal permanent resident spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien if such a child has not been classified under clause (iii)) under such section if the alien demonstrates to the Attorney General that the conditions described in subclauses (I) and (II) of subparagraph (A)(iii) are met with respect to the alien.

(iii)^{59c} An alien who is the child of an alien lawfully admitted for permanent residence, who is a person of good moral character,

^{59b} Clauses (iii) and (iv) were added by § 40701(a)(1) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 1953, Sept. 13, 1994), effective January 1, 1995 under § 40701(d) of that Act.

^{59c} Clauses (ii) and (iii) were added by § 40701(a)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 1954, Sept. 13, 1994, effective January 1, 1995 under § 40701(d) of that Act.

who is eligible for classification under section 203(a)(2)(A), and who has resided in the United States with the alien's permanent resident alien parent may file a petition with the Attorney General under this subparagraph for classification of the alien under such section if the alien demonstrates to the Attorney General that—

(I) the alien is residing in the United States and during the period of residence with the permanent resident parent the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's permanent resident parent; and

(II) the alien is a person whose deportation, in the opinion of the Attorney General, would result in extreme hardship to the alien.

(C) Any alien desiring to be classified under section 203(b)(1)(A), or any person on behalf of such an alien, may file a petition with the Attorney General for such classification.

(D) Any employer desiring and intending to employ within the United States an alien entitled to classification under section 203(b)(1)(B), 203(b)(1)(C), 203(b)(2), or 203(b)(3) may file a petition with the Attorney General for such classification.

(E)(i) Any alien (other than a special immigrant under section 101(a)(27)(D)) desiring to be classified under section 203(b)(4), or any person on behalf of such an alien, may file a petition with the Attorney General for such classification.

(ii) Aliens claiming status as a special immigrant under section 101(a)(27)(D) may file a petition only with the Secretary of State and only after notification by the Secretary that such status has been recommended and approved pursuant to such section.

(F) Any alien desiring to be classified under section 203(b)(5) may file a petition with the Attorney General for such classification.

(G)(i) Any alien desiring to be provided an immigrant visa under section 203(c) may file a petition at the place and time determined by the Secretary of State by regulation. Only one such petition may be filed by an alien with respect to any petitioning period established. If more than one petition is submitted all such petitions submitted for such period by the alien shall be voided.

(ii)(I) The Secretary of State shall designate a period for the filing of petitions with respect to visas which may be issued under section 203(c) for the fiscal year beginning after the end of the period.

(II) Aliens who qualify, through random selection, for a visa under section 203(c) shall remain eligible to receive such visa only through the end of the specific fiscal year for which they were selected.

(III) The Secretary of State shall prescribe such regulations as may be necessary to carry out this clause.

(iii) A petition under this subparagraph shall be in such form as the Secretary of State may by regulation prescribe and shall contain such information and be supported by such documentary evidence as the Secretary of State may require.

(H)^{59d} In acting on petitions filed under clause (iii) or (iv) of subparagraph (A) or clause (ii) or (iii) of subparagraph (B), the Attorney General shall consider any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.

(2)(A) The Attorney General may not approve a spousal second preference petition for the classification of the spouse of an alien if the alien, by virtue of a prior marriage, has been accorded the status of an alien lawfully admitted for permanent residence as the spouse of a citizen of the United States or as the spouse of an alien lawfully admitted for permanent residence, unless—

(i) a period of 5 years has elapsed after the date the alien acquired the status of an alien lawfully admitted for permanent residence, or

(ii) the alien establishes to the satisfaction of the Attorney General by clear and convincing evidence that the prior marriage (on the basis of which the alien obtained the status of an alien lawfully admitted for permanent residence) was not entered into for the purpose of evading any provision of the immigration laws.

In this subparagraph, the term “spousal second preference petition” refers to a petition, seeking preference status under section 203(a)(2), for an alien as a spouse of an alien lawfully admitted for permanent residence.

(B) Subparagraph (A) shall not apply to a petition filed for the classification of the spouse of an alien if the prior marriage of the alien was terminated by the death of his or her spouse.

(b) After an investigation of the facts in each case, and after consultation with the Secretary of Labor with respect to petitions to accord a status under section 203(b)(2) or 203(b)(3), the Attorney General shall, if he determines that the facts stated in the petition are true and that the alien in behalf of whom the petition is made is an immediate relative specified in section 201(b) or is eligible for preference under subsection (a) or (b) of section 203, approve the petition and forward one copy thereof to the Department of State. The Secretary of State shall then authorize the consular officer concerned to grant the preference status.

(c) Notwithstanding the provisions of subsection (b) no petition shall be approved if (1) the alien has previously been accorded, or has sought to be accorded, an immediate relative or preference status as the spouse of a citizen of the United States or the spouse of an alien lawfully admitted for permanent residence, by reason of a marriage determined by the Attorney General to have been entered into for the purpose of evading the immigration laws or (2) the Attorney General has determined that the alien has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws.

(d) Notwithstanding the provisions of subsections (a) and (b) no petition may be approved on behalf of a child defined in section 101(b)(1)(F) unless a valid home-study has been favorably rec-

^{59d} Subparagraph (H) was added by § 40701(a)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 1954, Sept. 13, 1994, effective January 1, 1995, under § 40701(d) of that Act.

ommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States.

(e) Nothing in this section shall be construed to entitle an immigrant, in behalf of whom a petition under this section is approved, to enter the United States as an immigrant under subsection (a), (b), or (c) of section 203 or as an immediate relative under section 201(b) if upon his arrival at a port of entry in the United States he is found not to be entitled to such classification.

(f)(1)⁶⁰ Any alien claiming to be an alien described in paragraph (2)(A) of this subsection (or any person on behalf of such an alien) may file a petition with the Attorney General for classification under section 201(b), 203(a)(1), or 203(a)(3), as appropriate. After an investigation of the facts of each case the Attorney General shall, if the conditions described in paragraph (2) are met, approve the petition and forward one copy to the Secretary of State.

(2) The Attorney General may approve a petition for an alien under paragraph (1) if—

(A) he has reason to believe that the alien (i) was born in Korea, Vietnam, Laos, Kampuchea, or Thailand after 1950 and before the date of the enactment of this subsection, and (ii) was fathered by a United States citizen;

(B) he has received an acceptable guarantee of legal custody and financial responsibility described in paragraph (4); and

(C) in the case of an alien under eighteen years of age, (i) the alien's placement with a sponsor in the United States has been arranged by an appropriate public, private, or State child welfare agency licensed in the United States and actively involved in the intercountry placement of children and (ii) the alien's mother or guardian has in writing irrevocably released the alien for emigration.

(3) In considering petitions filed under paragraph (1), the Attorney General shall—

(A) consult with appropriate governmental officials and officials of private voluntary organizations in the country of the alien's birth in order to make the determinations described in subparagraphs (A) and (C)(ii) of paragraph (2); and

(B) consider the physical appearance of the alien and any evidence provided by the petitioner, including birth and baptismal certificates, local civil records, photographs of, and letters or proof of financial support from, a putative father who is a citizen of the United States, and the testimony of witnesses, to the extent it is relevant or probative.

(4)(A) A guarantee of legal custody and financial responsibility for an alien described in paragraph (2) must—

(i) be signed in the presence of an immigration officer or consular officer by an individual (hereinafter in this paragraph referred to as the "sponsor") who is twenty-one years of age or

⁶⁰ The previous subsection (f) was stricken, and subsections (g) and (h) were redesignated as subsections (f) and (g), by paragraphs (5) and (6), respectively, of § 162(d)(6) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5011).

older, is of good moral character, and is a citizen of the United States or alien lawfully admitted for permanent residence, and

(ii) provide that the sponsor agrees (I) in the case of an alien under eighteen years of age, to assume legal custody for the alien after the alien's departure to the United States and until the alien becomes eighteen years of age, in accordance with the laws of the State where the alien and the sponsor will reside, and (II) to furnish, during the five-year period beginning on the date of the alien's acquiring the status of an alien lawfully admitted for permanent residence, or during the period beginning on the date of the alien's acquiring the status of an alien lawfully admitted for permanent residence and ending on the date on which the alien becomes twenty-one years of age, whichever period is longer, such financial support as is necessary to maintain the family in the United States of which the alien is a member at a level equal to at least 125 per centum of the current official poverty line (as established by the Director of the Office of Management and Budget, under section 673(2) of the Omnibus Budget Reconciliation Act of 1981 and as revised by the Secretary of Health and Human Services under the second and third sentences of such section) for a family of the same size as the size of the alien's family.

(B) A guarantee of legal custody and financial responsibility described in subparagraph (A) may be enforced with respect to an alien against his sponsor in a civil suit brought by the Attorney General in the United States district court for the district in which the sponsor resides, except that a sponsor or his estate shall not be liable under such a guarantee if the sponsor dies or is adjudicated a bankrupt under title 11, United States Code.

(g)⁶¹ Notwithstanding subsection (a), except as provided in section 245(e)(3), a petition may not be approved to grant an alien immediate relative status or preference status by reason of a marriage which was entered into during the period described in section 245(e)(2), until the alien has resided outside the United States for a 2-year period beginning after the date of the marriage.

(h)^{61a} The legal termination of a marriage may not be the sole basis for revocation under section 205 of a petition filed under subsection (a)(1)(A)(iii) or a petition filed under subsection (a)(1)(B)(ii) pursuant to conditions described in subsection (a)(1)(A)(iii)(I).

REVOCATION OF APPROVAL OF PETITIONS

SEC. 205. [8 U.S.C. 1155] The Attorney General may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204. Such revocation shall be effective as of the date of approval of any such

⁶¹This subsection was added by § 5(b) of Pub. L. 99-639 (100 Stat. 3543), effective for marriages entered into on or after Nov. 10, 1986, and was redesignated as subsection (g) by § 162(d)(6) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5011). The reference to § 245(e)(3) was inserted in section 204(g) by § 702(b) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5086), as amended by § 308(b) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1757).

^{61a}Subsection (h) was added by § 40701(c) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 1954, Sept. 13, 1994), effective January 1, 1995 under § 40701(d) of that Act.

petition. In no case, however, shall such revocation have effect unless there is mailed to the petitioner's last known address a notice of the revocation and unless notice of the revocation is communicated through the Secretary of State to the beneficiary of the petition before such beneficiary commences his journey to the United States. If notice of revocation is not so given, and the beneficiary applies for admission to the United States, his admissibility shall be determined in the manner provided for by sections 235 and 236.

UNUSED IMMIGRANT VISAS

SEC. 206. [8 U.S.C. 1156] If an immigrant having an immigrant visa is excluded from admission to the United States and deported, or does not apply for admission before the expiration of the validity of his visa, or if an alien having an immigrant visa issued to him as a preference immigrant is found not to be a preference immigrant, an immigrant visa or a preference immigrant visa, as the case may be, may be issued in lieu thereof to another qualified alien.

ANNUAL ADMISSION OF REFUGEES AND ADMISSION OF EMERGENCY SITUATION REFUGEES ⁶²

SEC. 207. [8 U.S.C. 1157] (a)(1) Except as provided in subsection (b), the number of refugees who may be admitted under this section in fiscal year 1980, 1981, or 1982, may not exceed fifty thousand unless the President determines, before the beginning of the fiscal year and after appropriate consultation (as defined in subsection (e)), that admission of a specific number of refugees in excess of such number is justified by humanitarian concerns or is otherwise in the national interest.

(2) Except as provided in subsection (b), the number of refugees who may be admitted under this section in any fiscal year after fiscal year 1982 shall be such number as the President determines, before the beginning of the fiscal year and after appropriate consultation, is justified by humanitarian concerns or is otherwise in the national interest.

(3) Admissions under this subsection shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after appropriate consultation.

(4) ⁶³ In the determination made under this subsection for each fiscal year (beginning with fiscal year 1992), the President shall enumerate, with the respective number of refugees so determined, the number of aliens who were granted asylum in the previous year.

(b) If the President determines, after appropriate consultation, that (1) an unforeseen emergency refugee situation exists, (2) the admission of certain refugees in response to the emergency refugee situation is justified by grave humanitarian concerns or is other-

⁶²Section 599D of Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (P.L. 101-167, 103 Stat. 1261-1263, Nov. 21, 1989), shown in Appendix II.H., establishes categories of aliens for purposes of refugee determinations.

⁶³Paragraph (4) was added by § 104(b) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 4985).

wise in the national interest, and (3) the admission to the United States of these refugees cannot be accomplished under subsection (a), the President may fix a number of refugees to be admitted to the United States during the succeeding period (not to exceed twelve months) in response to the emergency refugee situation and such admissions shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after the appropriate consultation provided under this subsection.

(c)(1) Subject to the numerical limitations established pursuant to subsections (a) and (b), the Attorney General may, in the Attorney General's discretion and pursuant to such regulations as the Attorney General may prescribe, admit any refugee who is not firmly resettled in any foreign country, is determined to be of special humanitarian concern to the United States, and is admissible (except as otherwise provided under paragraph (3)) as an immigrant under this Act.⁶⁴

(2) A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of any refugee who qualifies for admission under paragraph (1) shall, if not otherwise entitled to admission under paragraph (1) and if not a person described in the second sentence of section 101(a)(42), be entitled to the same admission status as such refugee if accompanying, or following to join, such refugee and if the spouse or child is admissible (except as otherwise provided under paragraph (3)) as an immigrant under this Act. Upon the spouse's or child's admission to the United States, such admission shall be charged against the numerical limitation established in accordance with the appropriate subsection under which the refugee's admission is charged.

(3) The provisions of paragraphs (4), (5), and (7)(A)⁶⁵ of section 212(a) shall not be applicable to any alien seeking admission to the United States under this subsection, and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) or subparagraph (A), (B), (C), or (E) of paragraph (3))⁶⁵ with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following an investigation. The Attorney General shall provide for the annual reporting to Congress of the number of waivers granted under this paragraph in the previous fiscal year and a summary of the reasons for granting such waivers.

(4) The refugee status of any alien (and of the spouse or child of the alien) may be terminated by the Attorney General pursuant to such regulations as the Attorney General may prescribe if the Attorney General determines that the alien was not in fact a refu-

⁶⁴ For provision relating to the processing of certain Cuban political prisoners as refugees, see subsections (a) and (c) of § 702 of the Cuban Political Prisoners and Immigrants [sic], contained in Pub. L. 100-202, 101 Stat. 1329-39, Dec. 22, 1987, shown in Appendix IV.F., and subsections (a) and (c) of § 903 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100-204, 101 Stat. 1401, Dec. 22, 1987), shown in Appendix II.E.

⁶⁵ § 603(a)(4) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5082) substituted a reference to "paragraphs (4), (5), and (7)(A)" for a reference to "paragraphs (14), (15), (20), (21), (25), and (32)" and a reference to "(other than paragraph (2)(C) or subparagraphs (A), (B), (C), or (E) of paragraph (3))" for a reference to "(other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics)".

gee within the meaning of section 101(a)(42) at the time of the alien's admission.

(d)(1) Before the start of each fiscal year the President shall report to the Committee on the Judiciary of the House of Representatives and of the Senate regarding the foreseeable number of refugees who will be in need of resettlement during the fiscal year and the anticipated allocation of refugee admissions during the fiscal year. The President shall provide for periodic discussions between designated representatives of the President and members of such committees regarding changes in the worldwide refugee situation, the progress of refugee admissions, and the possible need for adjustments in the allocation of admissions among refugees.

(2) As soon as possible after representatives of the President initiate appropriate consultation with respect to the number of refugee admissions under subsection (a) or with respect to the admission of refugees in response to an emergency refugee situation under subsection (b), the Committees on the Judiciary of the House of Representatives and of the Senate shall cause to have printed in the Congressional Record the substance of such consultation.

(3)(A) After the President initiates appropriate consultation prior to making a determination under subsection (a), a hearing to review the proposed determination shall be held unless public disclosure of the details of the proposal would jeopardize the lives or safety of individuals.

(B) After the President initiates appropriate consultation prior to making a determination, under subsection (b), that the number of refugee admissions should be increased because of an unforeseen emergency refugee situation, to the extent that time and the nature of the emergency refugee situation permit, a hearing to review the proposal to increase refugee admissions shall be held unless public disclosure of the details of the proposal would jeopardize the lives or safety of individuals.

(e) For purposes of this section, the term "appropriate consultation" means, with respect to the admission of refugees and allocation of refugee admissions, discussions in person by designated Cabinet-level representatives of the President with members of the Committees on the Judiciary of the Senate and of the House of Representatives to review the refugee situation or emergency refugee situation, to project the extent of possible participation of the United States therein, to discuss the reasons for believing that the proposed admission of refugees is justified by humanitarian concerns or grave humanitarian concerns or is otherwise in the national interest, and to provide such members with the following information:

- (1) A description of the nature of the refugee situation.
- (2) A description of the number and allocation of the refugees to be admitted and an analysis of conditions within the countries from which they came.
- (3) A description of the proposed plans for their movement and resettlement and the estimated cost of their movement and resettlement.
- (4) An analysis of the anticipated social, economic, and demographic impact of their admission to the United States.

(5) A description of the extent to which other countries will admit and assist in the resettlement of such refugees.

(6) An analysis of the impact of the participation of the United States in the resettlement of such refugees on the foreign policy interests of the United States.

(7) Such additional information as may be appropriate or requested by such members.

To the extent possible, information described in this subsection shall be provided at least two weeks in advance of discussions in person by designated representatives of the President with such members.

ASYLUM PROCEDURE

SEC. 208. [8 U.S.C. 1158] (a) The Attorney General shall establish a procedure for an alien physically present in the United States or at a land border or port of entry, irrespective of such alien's status, to apply for asylum, and the alien may be granted asylum in the discretion of the Attorney General if the Attorney General determines that such alien is a refugee within the meaning of section 101(a)(42)(A).

(b) Asylum granted under subsection (a) may be terminated if the Attorney General, pursuant to such regulations as the Attorney General may prescribe, determines that the alien is no longer a refugee within the meaning of section 101(a)(42)(A) owing to a change in circumstances in the alien's country of nationality or, in the case of an alien having no nationality, in the country in which the alien last habitually resided.

(c) A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of an alien who is granted asylum under subsection (a) may, if not otherwise eligible for asylum under such subsection, be granted the same status as the alien if accompanying, or following to join, such alien.

(d)⁶⁶ An alien who has been convicted of an aggravated felony, notwithstanding subsection (a), may not apply for or be granted asylum.

(e)^{66a} An applicant for asylum is not entitled to employment authorization except as may be provided by regulation in the discretion of the Attorney General.

ADJUSTMENT OF STATUS OF REFUGEES

SEC. 209. [8 U.S.C. 1159] (a)(1) Any alien who has been admitted to the United States under section 207—

(A) whose admission has not been terminated by the Attorney General pursuant to such regulations as the Attorney General may prescribe,

(B) who has been physically present in the United States for at least one year, and

(C) who has not acquired permanent resident status,

⁶⁶ Subsection (d) was added by § 515(a)(1) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5053), applicable to applications for asylum made on or after November 29, 1990.

^{66a} Subsection (e) was added by § 130005(b) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 2028, Sept. 13, 1994).

shall, at the end of such year period, return or be returned to the custody of the Service for inspection and examination for admission to the United States as an immigrant in accordance with the provisions of sections 235, 236, and 237.

(2) Any alien who is found upon inspection and examination by an immigration officer pursuant to paragraph (1) or after a hearing before a special inquiry officer to be admissible (except as otherwise provided under subsection (c)) as an immigrant under this Act at the time of the alien's inspection and examination shall, notwithstanding any numerical limitation specified in this Act, be regarded as lawfully admitted to the United States for permanent residence as of the date of such alien's arrival into the United States.

(b) Not more than 10,000⁶⁷ of the refugee admissions authorized under section 207(a) in any fiscal year may be made available by the Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, to adjust to the status of an alien lawfully admitted for permanent residence the status of any alien granted asylum who—

- (1) applies for such adjustment,
- (2) has been physically present in the United States for at least one year after being granted asylum,
- (3) continues to be a refugee within the meaning of section 101(a)(42)(A) or a spouse or child of such a refugee,
- (4) is not firmly resettled in any foreign country, and
- (5) is admissible (except as otherwise provided under subsection (c)) as an immigrant under this Act at the time of examination for adjustment of such alien.

Upon approval of an application under this subsection, the Attorney General shall establish a record of the alien's admission for lawful permanent residence as of the date one year before the date of the approval of the application.

⁶⁷ § 104(a)(1) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 4985) increased the number of refugee admissions made available from 5,000 to 10,000, effective beginning with fiscal year 1991. § 104(a)(2) of that Act provides as follows:

(2) EFFECTIVE DATE AND TRANSITION.—The amendment made by paragraph (1) shall apply to fiscal years beginning with fiscal year 1991 and the President is authorized, without the need for appropriate consultation, to increase the refugee determination previously made under section 207 of the Immigration and Nationality Act for fiscal year 1991 in order to make such amendment effective for such fiscal year.

Subsections (c) and (d) of § 104 of that Act (104 Stat. 4985) provide as follows:

(c) WAIVER OF NUMERICAL LIMITATION FOR CERTAIN CURRENT ASYLEES.—The numerical limitation on the number of aliens whose status may be adjusted under section 209(b) of the Immigration and Nationality Act shall not apply to an alien described in subsection (d) or to an alien who has applied for adjustment of status under such section on or before June 1, 1990.

(d) ADJUSTMENT OF CERTAIN FORMER ASYLEES.—

(1) IN GENERAL.—Subject to paragraph (2), the provisions of section 209(b) of the Immigration and Nationality Act shall also apply to an alien—

(A) who was granted asylum before the date of the enactment of this Act (regardless of whether or not such asylum has been terminated under section 208(b) of the Immigration and Nationality Act),

(B) who is no longer a refugee because of a change in circumstances in a foreign state, and

(C) who was (or would be) qualified for adjustment of status under section 209(b) of the Immigration and Nationality Act as of the date of the enactment of this Act but for paragraphs (2) and (3) thereof and but for any numerical limitation under such section.

(2) APPLICATION OF PER COUNTRY LIMITATIONS.—The number of aliens who are natives of any foreign state who may adjust status pursuant to paragraph (1) in any fiscal year shall not exceed the difference between the per country limitation established under section 202(a) of the Immigration and Nationality Act and the number of aliens who are chargeable to that foreign state in the fiscal year under section 202 of such Act.

(c) The provisions of paragraphs (4), (5), and (7)(A)⁶⁸ of section 212(a) shall not be applicable to any alien seeking adjustment of status under this section, and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) or subparagraph (A), (B), (C), or (E) of paragraph (3))⁶⁸ with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

SPECIAL AGRICULTURAL WORKERS

SEC. 210. [8 U.S.C. 1160] (a) LAWFUL RESIDENCE.—

(1) IN GENERAL.—The Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for temporary residence if the Attorney General determines that the alien meets the following requirements:

(A) APPLICATION PERIOD.—The alien must apply for such adjustment during the 18-month period beginning on the first day of the seventh month that begins after the date of enactment of this section.

(B) PERFORMANCE OF SEASONAL AGRICULTURAL SERVICES AND RESIDENCE IN THE UNITED STATES.—The alien must establish that he has—

(i) resided in the United States, and

(ii) performed seasonal agricultural services in the United States for at least 90 man-days, during the 12-month period ending on May 1, 1986. For purposes of the previous sentence, performance of seasonal agricultural services in the United States for more than one employer on any one day shall be counted as performance of services for only 1 man-day.

(C) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2).

(2) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall adjust the status of any alien provided lawful temporary resident status under paragraph (1) to that of an alien lawfully admitted for permanent residence on the following date:

(A) GROUP 1.—Subject to the numerical limitation established under subparagraph (C), in the case of an alien who has established, at the time of application for temporary residence under paragraph (1), that the alien performed seasonal agricultural services in the United States for at least 90 man-days during each of the 12-months periods ending on May 1, 1984, 1985, and 1986, the adjustment shall occur on the first day after the end of the one-year period that begins on the later of (I) the date the alien was granted such temporary resident status, or (II)

⁶⁸ § 603(a)(4) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5082) substituted a reference to “paragraphs (4), (5), and (7)(A)” for a reference to “paragraphs (14), (15), (20), (21), (25), and (32)” and a reference to “(other than paragraph (2)(C) or subparagraphs (A), (B), (C), or (E) of paragraph (3))” for a reference to “(other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics)”.

the day after the last day of the application period described in paragraph (1)(A).

(B) GROUP 2.—In the case of aliens to which subparagraph (A) does not apply, the adjustment shall occur on the day after the last day of the two-year period that begins on the later of (I) the date the alien was granted such temporary resident status, or (II) the day after the last day of the application period described in paragraph (1)(A).

(C) NUMERICAL LIMITATION.—Subparagraph (A) shall not apply to more than 350,000 aliens. If more than 350,000 aliens meet the requirements of such subparagraph, such subparagraph shall apply to the 350,000 aliens whose applications for adjustment were first filed under paragraph (1) and subparagraph (B) shall apply to the remaining aliens.

(3) TERMINATION OF TEMPORARY RESIDENCE.—(A) During the period of temporary resident status granted an alien under paragraph (1), the Attorney General may terminate such status only upon a determination under this Act that the alien is deportable.

(B)⁶⁹ Before any alien becomes eligible for adjustment of status under paragraph (2), the Attorney General may deny adjustment to permanent status and provide for termination of the temporary resident status granted such alien under paragraph (1) if—

(i) the Attorney General finds by a preponderance of the evidence that the adjustment to temporary resident status was the result of fraud or willful misrepresentation as set out in section 212(a)(6)(C)(i),⁷⁰ or

(ii) the alien commits an act that (I) makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (c)(2), or (II) is convicted of a felony or 3 or more misdemeanors committed in the United States.

(4) AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien has the right to travel abroad (including commutation from a residence abroad) and shall be granted authorization to engage in employment in the United States and shall be provided an “employment authorized” endorsement or other appropriate work permit, in the same manner as for aliens lawfully admitted for permanent residence.

(5) IN GENERAL.—Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under paragraph (1), such status not having changed, is considered to be an alien lawfully admitted for permanent residence (as described in section 101(a)(20)), other than under any provision of the immigration laws.

⁶⁹ Subparagraph (B) was inserted by §4(a)(2) of the Immigration Nursing Relief Act of 1989 (Pub. L. 101-238, Dec. 18, 1989, 103 Stat. 2103).

⁷⁰ § 603(a)(5)(A) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5082) substituted a reference to paragraph 212(a)(6)(C)(i) for a reference to paragraph 212(a)(19).

(b) APPLICATIONS FOR ADJUSTMENT OF STATUS.—

(1) TO WHOM MAY BE MADE.—

(A) WITHIN THE UNITED STATES.—The Attorney General shall provide that applications for adjustment of status under subsection (a) may be filed—

(i) with the Attorney General, or

(ii) with a designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Attorney General.

(B) OUTSIDE THE UNITED STATES.—The Attorney General, in cooperation with the Secretary of State, shall provide a procedure whereby an alien may apply for adjustment of status under subsection (a)(1) at an appropriate consular office outside the United States. If the alien otherwise qualifies for such adjustment, the Attorney General shall provide such documentation of authorization to enter the United States and to have the alien's status adjusted upon entry as may be necessary to carry out the provisions of this section.

(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—

For purposes of receiving applications under this section, the Attorney General—

(A) shall designate qualified voluntary organizations and other qualified State, local, community, farm labor organizations, and associations of agricultural employers, and

(B) may designate such other persons as the Attorney General determines are qualified and have substantial experience, demonstrated competence, and traditional long-term involvement in the preparation and submittal of applications for adjustment of status under section 209 or 245, Public Law 89-732, or Public Law 95-145.

(3) PROOF OF ELIGIBILITY.—

(A) IN GENERAL.—An alien may establish that he meets the requirement of subsection (a)(1)(B)(ii) through government employment records, records supplied by employers or collective bargaining organizations, and such other reliable documentation as the alien may provide. The Attorney General shall establish special procedures to credit properly work in cases in which an alien was employed under an assumed name.

(B) DOCUMENTATION OF WORK HISTORY.—(i) An alien applying for adjustment of status under subsection (a)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of man-days (as required under subsection (a)(1)(B)(ii)).

(ii) If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Attorney General.

(iii) An alien can meet such burden of proof if the alien establishes that the alien has in fact performed the work described in subsection (a)(1)(B)(ii) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference. In such a case, the burden then shifts to the Attorney General to disprove the alien's evidence with a showing which negates the reasonableness of the inference to be drawn from the evidence.

(4) TREATMENT OF APPLICATIONS BY DESIGNATED ENTITIES.—Each designated entity must agree to forward to the Attorney General applications filed with it in accordance with paragraph (1)(A)(ii) but not to forward to the Attorney General applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Attorney General.

(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this section by designated entities operating under this section are confidential and the Attorney General and the Service shall not have access to such files or records relating to an alien without the consent of the alien.

(6) CONFIDENTIALITY OF INFORMATION.—Neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

(A)⁷¹ use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application including a determination under subparagraph (a)(3)(B), or for enforcement of paragraph (7).

(B) make any publication whereby the information furnished by any particular individual can be identified, or

(C) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(A) CRIMINAL PENALTY.—Whoever—

(i) files an application for adjustment of status under this section and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or

⁷¹ Subparagraph (A) was rewritten by §4(b) of the Immigration Nursing Relief Act of 1989 (Pub. L. 101-238, Dec. 18, 1989); formerly it read as follows: "use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application or for enforcement of paragraph (7)".

(ii) creates or supplies a false writing or document for use in making such an application, shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

(B) EXCLUSION.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

(c) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR EXCLUSION.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF GROUNDS FOR EXCLUSION.—In the determination of an alien's admissibility under subsection (a)(1)(C)—

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5) and (7)(A)⁷² of section 212(a) shall not apply.

(B) WAIVER OF OTHER GROUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(ii)⁷³ GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Attorney General under clause (i):

(I) Paragraph (2)(A) and (2)(B) (relating to criminals).

(II) Paragraph (4) (relating to aliens likely to become public charges).

(III) Paragraph (2)(C) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

(IV) Paragraph (3) (relating to security and related grounds), other than subparagraph (E) thereof.

(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(4)⁷⁴ if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(d) TEMPORARY STAY OF EXCLUSION OR DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

⁷² § 603(a)(5)(B) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5082) substituted a reference to "paragraphs (5) and (7)(A)" for a reference to "paragraphs (14), (15), (20), (21), (25), and (32)".

⁷³ § 603(a)(5) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5082) changed references in this clause to various paragraphs in section 212(a).

⁷⁴ § 603(a)(5)(H) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5082) substituted a reference to paragraph (4) for a reference to paragraph (15).

(1) BEFORE APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1) and who can establish a nonfrivolous case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for adjustment, the alien—

(A) may not be excluded or deported, and

(B) shall be granted authorization to engage in employment in the United States and be provided an “employment authorized” endorsement or other appropriate work permit.

(2) DURING APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who presents a nonfrivolous application for adjustment of status under subsection (a) during the application period, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be excluded or deported, and

(B) shall be granted authorization to engage in employment in the United States and be provided an “employment authorized” endorsement or other appropriate work permit.

(3)⁷⁵ No application fees collected by the Service pursuant to this subsection may be used by the Service to offset the costs of the special agricultural worker legalization program until the Service implements the program consistent with the statutory mandate as follows:

(A) During the application period described in subsection (a)(1)(A) the Service may grant temporary admission to the United States, work authorization, and provide an “employment authorized” endorsement or other appropriate work permit to any alien who presents a preliminary application for adjustment of status under subsection (a) at a designated port of entry on the southern land border. An alien who does not enter through a port of entry is subject to deportation and removal as otherwise provided in this Act.

(B) During the application period described in subsection (a)(1)(A)⁷⁶ any alien who has filed an application for adjustment of status within the United States as provided in subsection (b)(1)(A) pursuant to the provision of 8 CFR section 210.1(j) is subject to paragraph (2) of this subsection.

(C) A preliminary application is defined as a fully completed and signed application with fee and photographs

⁷⁵ Paragraph (3) was inserted by §211 of the Department of Justice Appropriation Act, 1988 (101 Stat. 1329–19, as contained in §101(a) of Pub. L. 100–202). The text shown includes 3 enrollment corrections noted in the law as printed.

⁷⁶ Amended by §309(b)(6)(F) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102–232, Dec. 12, 1991, 105 Stat. 1759), as amended by §219(z)(7) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103–416, 108 Stat. 4318, Oct. 25, 1994).

which contains specific information concerning the performance of qualifying employment in the United States and the documentary evidence which the applicant intends to submit as proof of such employment. The applicant must be otherwise admissible to the United States and must establish to the satisfaction of the examining officer during an interview that his or her claim to eligibility for special agriculture worker status is credible.

(e) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review of a determination respecting an application for adjustment of status under this section except in accordance with this subsection.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF EXCLUSION OR DEPORTATION.—There shall be judicial review of such a denial only in the judicial review of an order of exclusion or deportation under section 106.

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(f) TEMPORARY DISQUALIFICATION OF NEWLY LEGALIZED ALIENS FROM RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN.—During the five-year period beginning on the date an alien was granted lawful temporary resident status under subsection (a), and notwithstanding any other provision of law, the alien is not eligible for aid under a State plan approved under part A of title IV of the Social Security Act. Notwithstanding the previous sentence, in the case of an alien who would be eligible for aid under a State plan approved under part A of title IV of the Social Security Act but for the previous sentence, the provisions of paragraph (3) of section 245A(h) shall apply in the same manner as they apply with respect to paragraph (1) of such section and, for this purpose, any reference in section 245A(h)(3) to paragraph (1) is deemed a reference to the previous sentence.

(g) TREATMENT OF SPECIAL AGRICULTURAL WORKERS.—For all purposes (subject to subsections (a)(5) and (f)) an alien whose status is adjusted under this section to that of an alien lawfully ad-

mitted for permanent residence, such status not having changed, shall be considered to be an alien lawfully admitted for permanent residence (within the meaning of section 101(a)(20)).

(h) **SEASONAL AGRICULTURAL SERVICES DEFINED.**—In this section, the term “seasonal agricultural services” means the performance of field work related to planting, cultural practices, cultivating, growing and harvesting of fruits and vegetables of every kind and other perishable commodities, as defined in regulations by the Secretary of Agriculture.

[Section 210A was repealed by §219(ee)(1) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4319, Oct. 25, 1994); it would appear that this amendment was effective as of November 29, 1990 (namely as if included in the enactment of the Immigration Act of 1990), under §219(dd) of P.L. 103-416.]

CHAPTER 2—QUALIFICATIONS FOR ADMISSION OF ALIENS; TRAVEL CONTROL OF CITIZENS AND ALIENS

DOCUMENTARY REQUIREMENTS

SEC. 211. [8 U.S.C. 1181] (a) Except as provided in subsection (b) and subsection (c) no immigrant shall be admitted into the United States unless at the time of application for admission he (1) has a valid unexpired immigrant visa or was born subsequent to the issuance of such visa of the accompanying parent, and (2) presents a valid unexpired passport or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Attorney General. With respect to immigrants to be admitted under quotas of quota areas prior to June 30, 1968, no immigrant visa shall be deemed valid unless the immigrant is properly chargeable to the quota area under the quota of which the visa is issued.

(b) Notwithstanding the provisions of section 212(a)(7)(A)⁸⁴ of this Act in such cases or in such classes of cases and under such conditions as may be by regulations prescribed, returning resident immigrants, defined in section 101(a)(27)(A), who are otherwise admissible may be readmitted to the United States by the Attorney General in his discretion without being required to obtain a passport, immigrant visa, reentry permit or other documentation.

(c) The provisions of subsection (a) shall not apply to an alien whom the Attorney General admits to the United States under section 207.

⁸⁴ § 603(a)(7) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5083) substituted a reference to section 212(a)(7)(A) for a reference to section 212(a)(20).

GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND
EXCLUDED FROM ADMISSION; WAIVERS OF INADMISSIBILITY

SEC. 212. [8 U.S.C. 1182] (a)^{85a} CLASSES OF EXCLUDABLE ALIENS.—Except as otherwise provided in this Act, the following

^{85a} Subsection (a) was revised in its entirety by § 601(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5067), effective June 1, 1991, under § 601(e)(1) of that Act. For this section as in effect before enactment of such Act, see Appendix II.A.2.

Section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403h) provides as follows:

SEC. 7. Whenever the Director [of the Central Intelligence Agency], the Attorney General and the Commissioner of Immigration [and Naturalization] shall determine that the entry of a particular alien into the United States for permanent residence is in the interest of national security or essential to the furtherance of the national intelligence mission, such alien and his immediate family shall be given entry into the United States for permanent residence without regard to their inadmissibility under the immigration or any other laws and regulations, or to the failure to comply with such laws and regulations pertaining to admissibility: *Provided*, That the number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed one hundred persons in any one fiscal year.

[NOTE.—In applying this section, § 155(c) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5007), shown in Appendix II.A.1., permits certain employees of the Foreign Broadcast Information Service in Hong Kong (and family members) to be charged under this section against fiscal year 1991 through 1996 numerical limitations, notwithstanding that their entry occurs in a subsequent fiscal year (before fiscal year 1997).]

Section 4 of the Atomic Weapons and Special Nuclear Materials Rewards Act (50 U.S.C. 47c) provides as follows:

SEC. 4. If the information leading to an award under section 3 [viz., concerning illegal introduction, manufacture, acquisition, and export of special nuclear material or atomic weapons or conspiracies related thereto] is furnished by an alien, the Secretary of State, the Attorney General, and the Director of Central Intelligence, acting jointly, may determine that the entry of such alien into the United States is in the public interest and, in that event, such alien and the members of his immediate family may receive immigrant visas and may be admitted to the United States for permanent residence, notwithstanding the requirements of the Immigration and Nationality Act.

§ 128 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Pub. L. 102-138, Oct. 28, 1991, 105 Stat. 660) provides as follows:

SEC. 128. VISA LOOKOUT SYSTEMS.

(a) **VISAS.**—The Secretary of State may not include in the Automated Visa Lookout System or in any other system or list which maintains information about the excludability of aliens under the Immigration and Nationality Act, the name of any alien who is not excludable from the United States under the Immigration and Nationality Act, subject to the provisions of this section.

(b) **CORRECTION OF LISTS.**—Not later than 3 years after the date of enactment of this Act, the Secretary of State shall—

(1) correct the Automated Visa Lookout System, or any other system or list which maintains information about the excludability of aliens under the Immigration and Nationality Act, by deleting the name of any alien not excludable under the Immigration and Nationality Act; and

(2) report to the Congress concerning the completion of such correction process.

(c) **REPORT ON CORRECTION PROCESS.**—

(1) Not later than 90 days after the date of enactment of this Act, the Secretary of State in coordination with the heads of other appropriate Government agencies, shall prepare and submit to the appropriate congressional committees, a plan which sets forth the manner in which the Department of State will correct the Automated Visa Lookout System, and any other system or list as set forth in subsection (b).

(2) Not later than 1 year after the date of enactment of this Act, the Secretary of State shall report to the appropriate congressional committees on the progress made toward completing the correction of lists as set forth in subsection (b).

(d) **APPLICATION.**—This section refers to the Immigration and Nationality Act as in effect on and after June 1, 1991.

(e) **LIMITATION.**—

(1) The Secretary may add or retain in such system or list the names of aliens who are not excludable only if they are included for otherwise authorized law enforcement purposes or other lawful purposes of the Department of State. A name included for other lawful purposes under this paragraph shall include a notation which clearly and distinctly indicates that such person is not presently excludable. The Secretary of State shall adopt procedures to ensure that visas are not denied to such individuals for any reason not set forth in the Immigration and Nationality Act.

(2) The Secretary shall publish in the Federal Register regulations and standards concerning maintenance and use by the Department of State of systems and lists for purposes described in paragraph (1).

(3) Nothing in this section may be construed as creating new authority or expanding any existing authority for any activity not otherwise authorized by law.

describes classes of excludable aliens who are ineligible to receive visas and who shall be excluded from admission into the United States:

(1) HEALTH-RELATED GROUNDS.—

(A) IN GENERAL.—Any alien—

(i) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to have a communicable disease of public health significance,^{85aa} which shall include infection with the etiologic agent for acquired immune deficiency syndrome,

(ii) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services in consultation with the Attorney General)—

(I) to have a physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others, or

(f) DEFINITION.—As used in this section the term “appropriate congressional committees” means the Committee on the Judiciary and the Committee on Foreign Affairs of the House of Representatives and the Committee on the Judiciary and the Committee on Foreign Relations of the Senate.

See also § 204(c)(3) of the Refugee Act of 1980 (Pub. L. 96–212, Mar. 17, 1980, 94 Stat. 109), shown in Appendix III.D., for waiver of certain provisions for aliens who were provided conditional entry or parole before April 1, 1980.

For table of applicability of grounds of visa ineligibility and waiver, see Appendix XI.E.

§ 1164 of the National Defense Authorization Act for Fiscal Year 1994 (P.L. 103–160, 107 Stat. 1764, Nov. 30, 1993) provides as follows:

SEC. 1164. SENSE OF SENATE ON ENTRY INTO THE UNITED STATES OF CERTAIN FORMER MEMBERS OF THE IRAQI ARMED FORCES.

It is the sense of the Senate that no person who was a member of the armed forces of Iraq during the period from August 2, 1990, through February 28, 1991, and who is in a refugee camp in Saudi Arabia as of the date of enactment of this Act should be granted entry into the United States under the Immigration and Nationality Act unless the President certifies to Congress before such entry that such person—

- (1) assisted the United States or coalition armed forces after defection from the armed forces of Iraq or after capture by the United States or coalition armed forces; and
- (2) did not commit or assist in the commission of war crimes.

Section 1073 of the National Defense Authorization Act for Fiscal Year 1995 (P.L. 103–337, Oct. 5, 1994, 108 Stat. 2860) provides as follows:

SEC. 1073. SENSE OF CONGRESS CONCERNING VISAS FOR HIGH-LEVEL OFFICIALS OF TAIWAN.

It is the sense of Congress that no visa should be denied for a high-level official of Taiwan to enter the United States unless the official is otherwise excludable under the immigration laws of the United States.

§ 221 of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103–416, 108 Stat. 4320, Oct. 25, 1994) provides as follows (punctuation and capitalization as in original):

SEC. 221. VISAS FOR OFFICIALS OF TAIWAN.

Whenever the President of Taiwan or any other high-level official of Taiwan shall apply to visit the United States for the purposes of discussions with United States Federal or State government officials concerning—

- (1) trade or business with Taiwan that will reduce the United States-Taiwan trade deficit;
- (2) prevention of nuclear proliferation;
- (3) threats to the national security of the United States;
- (4) the protection of the global environment;
- (5) the protection of endangered species; or
- (6) regional humanitarian disasters. [sic]

The [sic] official shall be admitted to the United States, unless the official is otherwise excludable under the immigration laws of the United States.

^{85aa}The phrase beginning “which shall include” was added by § 2007(a) of the National Institutes of Health Revitalization Act of 1993 (P.L. 103–43; June 10, 1993; 107 Stat. 210), effective July 10, 1993 [30 days after the date of the enactment of the Act].

(II) to have had a physical or mental disorder and a history of behavior associated with the disorder, which behavior has posed a threat to the property, safety, or welfare of the alien or others and which behavior is likely to recur or to lead to other harmful behavior, or

(iii) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to be a drug abuser or addict, is excludable.

(B) **WAIVER AUTHORIZED.**—For provision authorizing waiver of certain clauses of subparagraph (A), see subsection (g).

(2) **CRIMINAL AND RELATED GROUNDS.**—

(A) **CONVICTION OF CERTAIN CRIMES.**—

(i) **IN GENERAL.**—Except as provided in clause (ii), any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of—

(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime^{85aaa}, or

(II) a violation of (or a conspiracy or attempt^{85aaa} to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)),

is excludable.

(ii) **EXCEPTION.**—Clause (i)(I) shall not apply to an alien who committed only one crime if—

(I) the crime was committed when the alien was under 18 years of age, and the crime was committed (and the alien released from any confinement to a prison or correctional institution imposed for the crime) more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States, or

(II) the maximum penalty possible for the crime of which the alien was convicted (or which the alien admits having committed or of which the acts that the alien admits having committed constituted the essential elements) did not exceed imprisonment for one year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment in excess of 6 months (regardless of the extent to which the sentence was ultimately executed).

^{85aaa} § 203(a) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4311, Oct. 25, 1994) inserted “or an attempt or conspiracy to commit such a crime” in subclause (I) and “or attempt” in subclause (II), applicable to convictions occurring before, on, or after October 25, 1994, under § 203(c) of that Act.

(B) **MULTIPLE CRIMINAL CONVICTIONS.**—Any alien convicted of 2 or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement actually imposed were 5 years or more is excludable.

(C) **CONTROLLED SUBSTANCE TRAFFICKERS.**—Any alien who the consular or immigration officer knows or has reason to believe is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assister, abettor, conspirator, or colluder with others in the illicit trafficking in any such controlled substance, is excludable.^{85aaaa}

(D) **PROSTITUTION AND COMMERCIALIZED VICE.**—Any alien who—

(i) is coming to the United States solely, principally, or incidentally to engage in prostitution, or has engaged in prostitution within 10 years of the date of application for a visa, entry, or adjustment of status,

(ii) directly or indirectly procures or attempts to procure, or (within 10 years of the date of application for a visa, entry, or adjustment of status) procured or attempted to procure or to import, prostitutes or persons for the purpose of prostitution, or receives or (within such 10-year period) received, in whole or in part, the proceeds of prostitution, or

(iii) is coming to the United States to engage in any other unlawful commercialized vice, whether or not related to prostitution,

is excludable.

(E) **CERTAIN ALIENS INVOLVED IN SERIOUS CRIMINAL ACTIVITY WHO HAVE ASSERTED IMMUNITY FROM PROSECUTION.**—Any alien—

(i) who has committed in the United States at any time a serious criminal offense (as defined in section 101(h)),

(ii) for whom immunity from criminal jurisdiction was exercised with respect to that offense,

(iii) who as a consequence of the offense and exercise of immunity has departed from the United States, and

^{85aaaa} § 107 of the International Narcotics Control Corrections Act of 1994 (P.L. 103-447, 108 Stat. 4695, Nov. 2, 1994) provides as follows:

SEC. 107. ASSISTANCE TO DRUG TRAFFICKERS.

The President shall take all reasonable steps provided by law to ensure that the immediate relatives of any individual described in section 487(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291f(a)), and the business partners of any such individual or of any entity described in such section, are not permitted entry into the United States, consistent with the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(iv) who has not subsequently submitted fully to the jurisdiction of the court in the United States having jurisdiction with respect to that offense, is excludable.

(F) **WAIVER AUTHORIZED.**—For provision authorizing waiver of certain subparagraphs of this paragraph, see subsection (h).

(3) **SECURITY AND RELATED GROUNDS.**—

(A) **IN GENERAL.**—Any alien who a consular officer or the Attorney General knows, or has reasonable ground to believe, seeks to enter the United States to engage solely, principally, or incidentally in—

(i) any activity (I) to violate any law of the United States relating to espionage or sabotage or (II) to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information,

(ii) any other unlawful activity, or

(iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means, is excludable.

(B) **TERRORIST ACTIVITIES** ^{85b}.—

(i) **IN GENERAL.**—Any alien who—

(I) has engaged in a terrorist activity, or

(II) a consular officer or the Attorney General knows, or has reasonable ground to believe, is likely to engage after entry in any terrorist activity (as defined in clause (iii)),

is excludable. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this Act, to be engaged in a terrorist activity.

(ii) **TERRORIST ACTIVITY DEFINED.**—As used in this Act, the term “terrorist activity” means any activity which is unlawful under the laws of the place where it is committed (or which, if committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following:

^{85b} § 51 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723), added by § 127 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Pub. L. 102-138, Oct. 28, 1991, 105 Stat. 660), provides as follows:

DENIAL OF VISAS

SEC. 51. (a) REPORT TO CONGRESS.—The Secretary shall report, on a timely basis, to the appropriate committees of the Congress each time a consular post denies a visa on the grounds of terrorist activities or foreign policy. Such report shall set forth the name and nationality of each such person and a factual statement of the basis for such denial.

(b) **LIMITATION.**—Information contained in such report may be classified to the extent necessary and shall protect intelligence sources and methods.

(c) **APPROPRIATE COMMITTEES.**—For the purposes of this section the term “appropriate committee of the Congress” means the Committee on the Judiciary and the Committee on Foreign Affairs of the House of Representatives and the Committee on the Judiciary and the Committee on Foreign Relations of the Senate.

(I) The hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).

(II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.

(III) A violent attack upon an internationally protected person (as defined in section 1116(b)(4) of title 18, United States Code) or upon the liberty of such a person.

(IV) An assassination.

(V) The use of any—

(a) biological agent, chemical agent, or nuclear weapon or device, or

(b) explosive or firearm (other than for mere personal monetary gain),
with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.

(VI) A threat, attempt, or conspiracy to do any of the foregoing.

(iii) ENGAGE IN TERRORIST ACTIVITY DEFINED.—As used in this Act, the term “engage in terrorist activity” means to commit, in an individual capacity or as a member of an organization, an act of terrorist activity or an act which the actor knows, or reasonably should know, affords material support to any individual, organization, or government in conducting a terrorist activity at any time, including any of the following acts:

(I) The preparation or planning of a terrorist activity.

(II) The gathering of information on potential targets for terrorist activity.

(III) The providing of any type of material support, including a safe house, transportation, communications, funds, false identification, weapons, explosives, or training, to any individual the actor knows or has reason to believe has committed or plans to commit a terrorist activity.

(IV) The soliciting of funds or other things of value for terrorist activity or for any terrorist organization.

(V) The solicitation of any individual for membership in a terrorist organization, terrorist government, or to engage in a terrorist activity.

(C) FOREIGN POLICY.—

(i) IN GENERAL.—An alien whose entry or proposed activities in the United States the Secretary of State has reasonable ground to believe would have potentially serious adverse foreign policy consequences for the United States is excludable.

(ii) EXCEPTION FOR OFFICIALS.—An alien who is an official of a foreign government or a purported government, or who is a candidate for election to a foreign government office during the period immediately preceding the election for that office, shall not be excludable or subject to restrictions or conditions on entry into the United States under clause (i) solely because of the alien's past, current, or expected beliefs, statements, or associations, if such beliefs, statements, or associations would be lawful within the United States.

(iii) EXCEPTION FOR OTHER ALIENS.—An alien, not described in clause (ii), shall not be excludable or subject to restrictions or conditions on entry into the United States under clause (i) because of the alien's past, current, or expected beliefs, statements, or associations, if such beliefs, statements, or associations would be lawful within the United States, unless the Secretary of State personally determines that the alien's admission would compromise a compelling United States foreign policy interest.

(iv) NOTIFICATION OF DETERMINATIONS.—If a determination is made under clause (iii) with respect to an alien, the Secretary of State must notify on a timely basis the chairmen of the Committees on the Judiciary and Foreign Affairs of the House of Representatives and of the Committees on the Judiciary and Foreign Relations of the Senate of the identity of the alien and the reasons for the determination.

(D) IMMIGRANT MEMBERSHIP IN TOTALITARIAN PARTY.—

(i) IN GENERAL.—Any immigrant who is or has been a member of or affiliated with the Communist or any other totalitarian party (or subdivision or affiliate thereof), domestic or foreign, is excludable.

(ii) EXCEPTION FOR INVOLUNTARY MEMBERSHIP.—Clause (i) shall not apply to an alien because of membership or affiliation if the alien establishes to the satisfaction of the consular officer when applying for a visa (or to the satisfaction of the Attorney General when applying for admission) that the membership or affiliation is or was involuntary, or is or was solely when under 16 years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and whether necessary for such purposes.

(iii) EXCEPTION FOR PAST MEMBERSHIP.—Clause (i) shall not apply to an alien because of membership or affiliation if the alien establishes to the satisfaction of the consular officer when applying for a visa (or to the satisfaction of the Attorney General when applying for admission) that—

(I) the membership or affiliation terminated at least—

(a) 2 years before the date of such application, or

(b) 5 years before the date of such application, in the case of an alien whose membership or affiliation was with the party controlling the government of a foreign state that is a totalitarian dictatorship as of such date, and

(II) the alien is not a threat to the security of the United States.

(iv) EXCEPTION FOR CLOSE FAMILY MEMBERS.—The Attorney General may, in the Attorney General's discretion, waive the application of clause (i) in the case of an immigrant who is the parent, spouse, son, daughter, brother, or sister of a citizen of the United States or a spouse, son, or daughter of an alien lawfully admitted for permanent residence for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest if the immigrant is not a threat to the security of the United States.

(E) PARTICIPANTS IN NAZI PERSECUTIONS OR GENOCIDE.—

(i) PARTICIPATION IN NAZI PERSECUTIONS.—Any alien who, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

(I) the Nazi government of Germany,

(II) any government in any area occupied by the military forces of the Nazi government of Germany,

(III) any government established with the assistance or cooperation of the Nazi government of Germany, or

(IV) any government which was an ally of the Nazi government of Germany, ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion is excludable.

(ii) PARTICIPATION IN GENOCIDE.—Any alien who has engaged in conduct that is defined as genocide for purposes of the International Convention on the Prevention and Punishment of Genocide is excludable.

(4) PUBLIC CHARGE.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.⁸⁶

(5) LABOR CERTIFICATION AND QUALIFICATIONS FOR CERTAIN IMMIGRANTS.—

(A) LABOR CERTIFICATION.—⁸⁷

⁸⁶ §§ 415 & 1621 of the Social Security Act provide for attribution to an alien of a sponsor's income and resources for purposes of determining the eligibility for and amount of benefits of the alien under the AFDC and SSI programs, respectively.

⁸⁷ § 122(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 4994), shown in Appendix II.A.1., provides for a labor market information pilot program affecting labor certifications under this subparagraph. § 122(b) of that Act (104 Stat. 4995) provides as follows:

(i) IN GENERAL.—Any alien who seeks to enter the United States for the purpose of performing skilled or unskilled labor⁸⁸ is excludable, unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that—

(I) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of an alien described in clause (ii)) and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and

(II) the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed.

(ii) CERTAIN ALIENS SUBJECT TO SPECIAL RULE.—For purposes of clause (i)(I), an alien described in this clause is an alien who—

(I) is a member of the teaching profession, or

(II) has exceptional ability in the sciences or the arts.

(B) UNQUALIFIED PHYSICIANS.—An alien⁸⁹ who is a graduate of a medical school not accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States) and who is coming to the United States principally to perform services as a member of the medical profession is excludable, unless the alien (i) has passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health and Human Services) and (ii) is competent in oral and written English. For purposes of the previous sentence, an alien who is a graduate of a medical school shall be considered to have passed parts I and II of the National Board of Medical Examiners if the alien was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date.

(b) NOTICE IN LABOR CERTIFICATIONS.—The Secretary of Labor shall provide, in the labor certification process under section 212(a)(5)(A) of the Immigration and Nationality Act, that—

(1) no certification may be made unless the applicant for certification has, at the time of filing the application, provided notice of the filing (A) to the bargaining representative (if any) of the employer's employees in the occupational classification and area for which aliens are sought, or (B) if there is no such bargaining representative, to employees employed at the facility through posting in conspicuous locations; and

(2) any person may submit documentary evidence bearing on the application for certification (such as information on available workers, information on wages and working conditions, and information on the employer's failure to meet terms and conditions with respect to the employment of alien workers and co-workers).

⁸⁸This provision reflects the repeal, by § 302(e)(6) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1746), of the amendment made by § 162(e)(1)(A) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5011).

⁸⁹This provision reflects the repeal, by § 302(e)(6) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1746), of the amendment made by § 162(e)(1)(B) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5011).

(C) APPLICATION OF GROUNDS.—The grounds for exclusion of aliens under subparagraphs (A) and (B) shall apply to immigrants seeking admission or adjustment of status under paragraph (2) or (3) of section 203(b).⁹⁰

(6) ILLEGAL ENTRANTS AND IMMIGRATION VIOLATORS.—

(A) ALIENS PREVIOUSLY DEPORTED.—Any alien who has been excluded from admission and deported and who again seeks admission within one year of the date of such deportation is excludable, unless prior to the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory the Attorney General has consented to the alien's reapplying for admission.

(B) CERTAIN ALIENS PREVIOUSLY REMOVED.—Any alien who—

- (i) has been arrested and deported,
- (ii) has fallen into distress and has been removed pursuant to this or any prior Act,
- (iii) has been removed as an alien enemy, or
- (iv) has been removed at Government expense in lieu of deportation pursuant to section 242(b),

and (a) who seeks admission within 5 years of the date of such deportation or removal, or (b) who seeks admission within 20 years in the case of an alien convicted of an aggravated felony, is excludable, unless before the date of the alien's embarkation or reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory the Attorney General has consented to the alien's applying or reapplying for admission.

(C) MISREPRESENTATION.—

(i) IN GENERAL.—Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or entry into the United States or other benefit provided under this Act is excludable.

(ii) WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i), see subsection (i).

(D) STOWAWAYS.—Any alien who is a stowaway is excludable.

(E) SMUGGLERS.—

(i) IN GENERAL.—Any alien who at any time knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law is excludable.

(ii)⁹¹ SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of alien who is an eligible immigrant (as defined in sec-

⁹⁰ § 307(a)(6) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1754), as amended by § 219(z)(5) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4318, Oct. 25, 1994), struck "preference immigrant aliens" and inserted the matter appearing after "shall apply to".

⁹¹ Clause (ii) was redesignated as clause (iii) and a new clause (ii) was added by § 307(a)(8) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1754).

tion 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

(iii) **WAIVER AUTHORIZED.**—For provision authorizing waiver of clause (i), see subsection (d)(11).

(F) **SUBJECT OF CIVIL PENALTY.**—An alien who is the subject of a final order for violation of section 274C is excludable.

(7) DOCUMENTATION REQUIREMENTS.—

(A) IMMIGRANTS.—

(i) **IN GENERAL.**—Except as otherwise specifically provided in this Act, any immigrant at the time of application for admission—

(I) who is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality if such document is required under the regulations issued by the Attorney General under section 211(a), or

(II) whose visa has been issued without compliance with the provisions of section 203, is excludable.

(ii) **WAIVER AUTHORIZED.**—For provision authorizing waiver of clause (i), see subsection (k).

(B) NONIMMIGRANTS.—

(i) **IN GENERAL.**—Any nonimmigrant who—

(I) is not in possession of a passport valid for a minimum of six months from the date of the expiration of the initial period of the alien's admission or contemplated initial period of stay authorizing the alien to return to the country from which the alien came or to proceed to and enter some other country during such period, or

(II) is not in possession of a valid non-immigrant visa or border crossing identification card at the time of application for admission, is excludable.

(ii) **GENERAL WAIVER AUTHORIZED.**—For provision authorizing waiver of clause (i), see subsection (d)(4)

(iii) **GUAM VISA WAIVER.**—For provision authorizing waiver of clause (i) in the case of visitors to Guam see subsection (l).

(iv) VISA WAIVER PILOT PROGRAM.—For authority to waive the requirement of clause (i) under a pilot program, see section 217.

(8) INELIGIBLE FOR CITIZENSHIP.—

(A) IN GENERAL.—Any immigrant who is permanently ineligible to citizenship is excludable.

(B) DRAFT EVADERS.—Any person who has departed from or who has remained outside the United States to avoid or evade training or service in the armed forces in time of war or a period declared by the President to be a national emergency is excludable, except that this subparagraph shall not apply to an alien who at the time of such departure was a nonimmigrant and who is seeking to reenter the United States as a nonimmigrant.

(9) MISCELLANEOUS.—

(A) PRACTICING POLYGAMISTS.—Any immigrant who is coming to the United States to practice polygamy is excludable.

(B) GUARDIAN REQUIRED TO ACCOMPANY EXCLUDED ALIEN.—Any alien accompanying another alien ordered to be excluded and deported and certified to be helpless from sickness or mental or physical disability or infancy pursuant to section 237(e), whose protection or guardianship is required by the alien ordered excluded and deported, is excludable.

(C) INTERNATIONAL CHILD ABDUCTION.—

(i) IN GENERAL.—Except as provided in clause (ii), any alien who, after entry of an order by a court in the United States granting custody to a person of a United States citizen child who detains or retains the child, or withholds custody of the child, outside the United States from the person granted custody by that order, is excludable until the child is surrendered to the person granted custody by that order.

(ii) EXCEPTION.—Clause (i) shall not apply so long as the child is located in a foreign state that is a party to the Hague Convention on the Civil Aspects of International Child Abduction.

(b)⁹² NOTICES OF DENIALS.—If an alien's application for a visa, for admission to the United States, or for adjustment of status is denied by an immigration or consular officer because the officer determines the alien to be excludable under subsection (a), the officer shall provide the alien with a timely written notice that—

(1) states the determination, and

(2) lists the specific provision or provisions of law under which the alien is excludable or ineligible for entry or adjustment of status.

(c) Aliens lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation, and who are returning to a lawful unrelinquished domicile of seven consecutive years, may be admitted in the discretion

⁹² Subsection (b) was amended in its entirety by § 601(b) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5075), effective June 1, 1991. For subsection (b) (relating to waiver of literacy requirement) as in effect before that date, see Appendix II.A.2.

of the Attorney General without regard to the provisions of subsection (a) (other than paragraphs (3) and (9)(C)).⁹³ Nothing contained in this subsection shall limit the authority of the Attorney General to exercise the discretion vested in him under section 211(b). The first sentence of this subsection shall not apply to an alien who has been convicted of one or more aggravated felonies and has served for such felony or felonies a term of imprisonment of at least 5 years.⁹⁴

(d)⁹⁵(1)^{95a} The Attorney General shall determine whether ground for exclusion exists with respect to a nonimmigrant described in section 101(a)(15)(S). The Attorney General, in the Attorney General's discretion, may waive the application of subsection (a) (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 101(a)(15)(S), if the Attorney General considers it to be in the national interest to do so. Nothing in this section shall be regarded as prohibiting the Immigration and Naturalization Service from instituting deportation proceedings against an alien admitted as a nonimmigrant under section 101(a)(15)(S) for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under section 101(a)(15)(S).

(3) Except as provided in this subsection, an alien (A) who is applying for a nonimmigrant visa and is known or believed by the consular officer to be ineligible for such visa under subsection (a) (other than paragraphs (3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii), (3)(C), and (3)(E) of such subsection), may, after approval by the Attorney General of a recommendation by the Secretary of State or by the consular officer that the alien be admitted temporarily despite his inadmissibility, be granted such a visa and may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General, or (B) who is inadmissible under subsection (a) (other than paragraphs (3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii), (3)(C), and (3)(E) of such subsection), but who is in possession of appropriate documents or is granted a waiver thereof and is seeking admission, may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General. The Attorney General shall prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission

⁹³ The previous reference in the first sentence to paragraphs (1) through (25), (30), and (31) was amended to the reference shown by § 601(d)(1) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5075), as corrected by § 307(b) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1754).

⁹⁴ The last sentence was added by § 511(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5052), applicable to admissions occurring after November 29, 1990, and was amended by § 306(a)(10) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1751) to substitute "one or more aggravated felonies and has served for such felony or felonies" for "an aggravated felony and has served", effective as if included in the Immigration Act of 1990.

⁹⁵ Paragraphs (1), (2), (6), (9), and (10) of this subsection were repealed by § 601(d)(2)(A) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5076), effective June 1, 1991. For such paragraphs in effect before such date, see Appendix II.A.2.

^{95a} The paragraph (1) shown was inserted "at the beginning" of section 212(d) by § 130003(b)(1) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 2024, Sept. 13, 1994), effective with respect to aliens against whom deportation proceedings are initiated after September 13, 1994, under § 130004(d) of that Act.

and return of excludable aliens applying for temporary admission under this paragraph.⁹⁶

(4) Either or both of the requirements of paragraph (7)(B)(i)⁹⁷ of subsection (a) may be waived by the Attorney General and the Secretary of State acting jointly (A) on the basis of unforeseen emergency in individual cases, or (B) on the basis of reciprocity with respect to nationals of foreign contiguous territory or of adjacent islands and residents thereof having a common nationality with such nationals, or (C) in the case of aliens proceeding in immediate and continuous transit through the United States under contracts authorized in section 238(c).

(5)(A) The Attorney General may, except as provided in subparagraph (B) or in section 214(f), in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

(B) The Attorney General may not parole into the United States an alien who is a refugee unless the Attorney General determines that compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States rather than be admitted as a refugee under section 207.

[(6) repealed; see footnote 95.]

⁹⁶ § 601(d)(2)(B) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5076), effective June 1, 1991, amended this paragraph by substituting for the reference to paragraphs in subsection (a) (other than paragraphs (27), (29), and (33) the reference shown and by adding the sentence at the end. The references shown were corrected by § 307(c) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1754).

Also, § 21 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2691, commonly referred to as the "McGovern Amendment") was repealed by § 603(a)(18) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5084). Previously, it had provided as follows:

SEC. 21. (a) For purposes of achieving greater United States compliance with the provisions of the Final Act of the Conference on Security and Cooperation in Europe (signed at Helsinki on August 1, 1975) and for purposes of encouraging other signatory countries to comply with those provisions, the Secretary of State should, within 30 days of receiving an application for a nonimmigrant visa by any alien who is excludible [sic] from the United States by reason of membership in or affiliation with a proscribed organization but who is otherwise admissible to the United States, recommend that the Attorney General grant the approval necessary for the issuance of a visa to such alien, unless the Secretary determines that the admission of such alien would be contrary to the security interests of the United States and so certifies to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate. Nothing in this section may be construed as authorizing or requiring the admission to the United States of any alien who is excludible [sic] for reasons other than membership in or affiliation with a proscribed organization.

(b) This section does not apply to representatives of purported labor organizations in countries where such organizations are in fact instruments of a totalitarian state.

(c) This section does not apply with respect to any alien who is a member, officer, official, representative, or spokesman of the Palestine Liberation Organization.

(d) The Secretary of State may refuse to recommend a waiver for aliens from signatory countries which are not in substantial compliance with the provisions of the Helsinki Final Act, particularly the human rights and humanitarian affairs provisions.

⁹⁷ § 601(d)(2)(C) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5076) substituted the reference to paragraph (7)(B)(i) for a previous reference to paragraph (26).

(7)⁹⁵ The provisions of subsection (a) (other than paragraph (7))⁹⁸ shall be applicable to any alien who shall leave Guam, Puerto Rico, or the Virgin Islands of the United States, and who seeks to enter the continental United States or any other place under the jurisdiction of the United States. Any alien described in this paragraph, who is excluded from admission to the United States, shall be immediately deported in the manner provided by section 237(a) of this Act.

(8)⁹⁵ Upon a basis of reciprocity accredited officials of foreign governments, their immediate families, attendants, servants, and personal employees may be admitted in immediate and continuous transit through the United States without regard to the provisions of this section except paragraphs (3)(A), (3)(B), (3)(C), and (7)(B)⁹⁹ of subsection (a) of this section.

[(9) and (10) repealed; see footnote 95.]

(11)⁹⁵ ¹⁰⁰ The Attorney General may, in his discretion for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive application of clause (i) of subsection (a)(6)(E) in the case of any alien lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily¹⁰⁰ and not under an order of deportation, and who is otherwise admissible to the United States as a returning resident under section 211(b) and in the case of an alien seeking admission or adjustment of status as an immediate relative or immigrant under section 203(a) (other than paragraph (4) thereof) if the alien has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

(e) No person admitted under section 101(a)(15)(J) or acquiring such status after admission (i) whose participation in the program for which he came to the United States was financed in whole or in part, directly or indirectly, by an agency of the Government of the United States or by the government of the country of his nationality or his last residence, (ii) who at the time of admission or acquisition of status under section 101(a)(15)(J) was a national or resident of a country which the Director of the United States Information Agency pursuant to regulations prescribed by him, had designated as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien was engaged, or (iii) who came to the United States or acquired such status in order to receive graduate medical education or training, shall be eligible to apply for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 101(a)(15)(H) or section 101(a)(15)(L) until it is established that such person has resided and been physically present in the country of his nationality

⁹⁸ § 601(d)(2)(D) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5076) substituted for the reference to paragraphs (20), (21), and (26) the reference to paragraph (7).

⁹⁹ § 601(d)(2)(E) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5076) substituted for the reference to paragraphs (26), (27), and (29) the reference to paragraphs (3)(A), (3)(B), (3)(C), and (7)(B).

¹⁰⁰ Paragraph (11) was added by § 601(d)(2)(F) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5076), and amended by § 307(d) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1754), and was amended by § 219(e) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4316, Oct. 25, 1994).

NOTE.—See footnote 95 on previous page.

or his last residence for an aggregate of a least two years following departure from the United States: *Provided*, That upon the favorable recommendation of the Director, pursuant to the request of an interested United States Government agency (or, in the case of an alien described in clause (iii), pursuant to the request of a State Department of Public Health, or its equivalent)^{100a}, or of the Commissioner of Immigration and Naturalization after he has determined that departure from the United States would impose exceptional hardship upon the alien's spouse or child (if such spouse or child is a citizen of the United States or a lawfully resident alien), or that the alien cannot return to the country of his nationality or last residence because he would be subject to persecution on account of race, religion, or political opinion, the Attorney General may waive the requirement of such two-year foreign residence abroad in the case of any alien whose admission to the United States is found by the Attorney General to be in the public interest except^{100b} that in the case of a waiver requested by a State Department of Public Health, or its equivalent the waiver shall be subject to the requirements of section 214(k): *And provided further*, That, except in the case of an alien described in clause (iii), the Attorney General may, upon the favorable recommendation of the Director, waive such two-year foreign residence requirement in any case in which the foreign country of the alien's nationality or last residence has furnished the Director a statement in writing that it has no objection to such waiver in the case of such alien.

(f) Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate.¹⁰¹

^{100a} Parenthetical phrase was inserted by § 220(a)(1) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4319, Oct. 25, 1994), applicable to aliens admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act, or acquiring such status after admission to the United States, before, on, or after October 25, 1994, and before June 1, 1996.

^{100b} The exception was inserted by § 220(a)(2) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4319, Oct. 25, 1994), applicable to aliens admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act, or acquiring such status after admission to the United States, before, on, or after October 25, 1994, and before June 1, 1996.

¹⁰¹ The processing of immigrant visa applications of Cuban nationals in third countries was required, notwithstanding this subsection, under subsections (b) and (c) of § 702 of the Cuban Political Prisoners and Immigrants [sic] (contained in Pub. L. 100-202, 101 Stat. 1329-40, Dec. 22, 1987), shown in Appendix III.G., and under subsections (b) and (c) of § 903 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100-204, 101 Stat. 1401, Dec. 22, 1987), shown in Appendix II.E. Also, Executive Order 12807, May 24, 1992, 57 F.R. 23133 (published on June 1) provides as follows:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Sections 212(f) and 215(a)(1) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(f) and 1185(a)(1)), and whereas:

(1) The President has authority to suspend the entry of aliens coming by sea to the United States without necessary documentation, to establish reasonable rules and regulations regarding, and other limitations on, the entry or attempted entry of aliens into the United States, and to repatriate aliens interdicted beyond the territorial sea of the United States;

(2) The international legal obligations of the United States under the United Nations Protocol Relating to the Status of Refugees (U.S. T.I.A.S. 6577; 19 U.S.T. 6223) to apply Article 33 of the United Nations Convention Relating to the Status of Refugees do not extend to persons located outside the territory of the United States;

(g)¹⁰² The Attorney General may waive the application of—

(1) subsection (a)(1)(A)(i) in the case of any alien who—

(A) is the spouse or the unmarried son or daughter, or the minor unmarried lawfully adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or of an alien who has been issued an immigrant visa, or

(B) has a son or daughter who is a United States citizen, or an alien lawfully admitted for permanent residence, or an alien who has been issued an immigrant visa, or

(2) subsection (a)(1)(A)(ii) in the case of any alien,

in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in his discretion after consultation with the Secretary of Health and Human Services, may by regulation prescribe.

(3) Proclamation No. 4865 suspends the entry of all undocumented aliens into the United States by the high seas; and

(4) There continues to be a serious problem of persons attempting to come to the United States by sea without necessary documentation and otherwise illegally;

I, GEORGE BUSH, President of the United States of America, hereby order as follows:

Section 1. The Secretary of State shall undertake to enter into, on behalf of the United States, cooperative arrangements with appropriate foreign governments for the purpose of preventing illegal migration to the United States by sea.

Sec. 2. (a) The Secretary of the Department in which the Coast Guard is operating, in consultation, where appropriate, with the Secretary of Defense, the Attorney General, and the Secretary of State, shall issue appropriate instructions to the Coast Guard in order to enforce the suspension of the entry of undocumented aliens and the interdiction of any defined vessel carrying such aliens.

(b) Those instructions shall apply to any of the following defined vessels:

(1) Vessels of the United States, meaning any vessel documented under the laws of the United States, or numbered pursuant to the laws of the United States, or owned in whole or in part by the United States, a citizen of the United States, or a corporation incorporated under the laws of the United States or any State, Territory, District, Commonwealth, or possession thereof, unless the vessel has been granted nationality by a foreign nation in accord with Article 5 of the Convention on the High Seas of 1958 (U.S. T.I.A.S. 5200; 13 U.S.T. 2312).

(2) Vessels without nationality or vessels assimilated to vessels without nationality in accordance with paragraph (2) of Article 6 of the Convention on the High Seas of 1958 (U.S. T.I.A.S. 5200; 13 U.S.T. 2312).

(3) Vessels of foreign nations with whom we have arrangements authorizing the United States to stop and board such vessels.

(c) Those instructions to the Coast Guard shall include appropriate directives providing for the Coast Guard:

(1) To stop and board defined vessels, when there is reason to believe that such vessels are engaged in the irregular transportation of persons or violations of United States law or the law of a country with which the United States has an arrangement authorizing such action.

(2) To make inquiries of those on board, examine documents and take such actions as are necessary to carry out this order.

(3) To return the vessel and its passengers to the country from which it came, or to another country, when there is reason to believe that an offense is being committed against the United States immigration laws, or appropriate laws of a foreign country with which we have an arrangement to assist; provided, however, that the Attorney General, in his unreviewable discretion, may decide that a person who is a refugee will not be returned without his consent.

(d) These actions, pursuant to this section, are authorized to be undertaken only outside the territorial waters of the United States.

Sec. 3. This order is intended only to improve the internal management of the Executive Branch. Neither this order nor any agency guidelines, procedures, instructions, directives, rules or regulations implementing this order shall create, or shall be construed to create, any right or benefit, substantive or procedural (including without limitation any right or benefit under the Administrative Procedure Act), legally enforceable by any party against the United States, its agencies or instrumentalities, officers, employees, or any other person. Nor shall this order be construed to require any procedures to determine whether a person is a refugee.

Sec. 4. Executive Order No. 12324 is hereby revoked and replaced by this order.

Sec. 5. This order shall be effective immediately.

¹⁰² Subsection (g) was amended in its entirety by § 601(d)(3) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5076), effective June 1, 1991. For the subsection in effect before that date, see Appendix II.A.2.

(h)¹⁰³ The Attorney General may, in his discretion, waive the application of subparagraphs (A)(i)(I), (B), (D), and (E) of subsection (a)(2) and subparagraph (A)(i)(II) of such subsection insofar as it relates to a single offense of simple possession of 30 grams or less of marijuana if—

(1)(A) in the case of any immigrant it is established to the satisfaction of the Attorney General that—

(i) the alien is excludable only under subparagraph (D)(i) or (D)(ii) of such subsection or the activities for which the alien is excludable occurred more than 15 years before the date of the alien's application for a visa, entry, or adjustment of status,

(ii) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States, and

(iii) the alien has been rehabilitated; or

(B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the alien's exclusion would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien; and

(2) the Attorney General, in his discretion, and pursuant to such terms, conditions and procedures as he may by regulations prescribe, has consented to the alien's applying or reapplying for a visa, for admission to the United States, or adjustment of status.

No waiver shall be provided under this subsection in the case of an alien who has been convicted of (or who has admitted committing acts that constitute) murder or criminal acts involving torture,^{103a} or an attempt or conspiracy to commit murder or a criminal act involving torture.

(i)¹⁰⁴ The Attorney General may, in his discretion, waive application of clause (i) of subsection (a)(6)(C)—

(1) in the case of an immigrant who is the spouse, parent, or son or daughter of a United States citizen or of an immigrant lawfully admitted for permanent residence, or

(2) if the fraud or misrepresentation occurred at least 10 years before the date of the immigrant's application for a visa, entry, or adjustment of status and it is established to the satisfaction of the Attorney General that the admission to the United States of such immigrant would not be contrary to the national welfare, safety, or security of the United States.

¹⁰³ Subsection (h) was amended in its entirety by § 601(d)(4) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5076), effective June 1, 1991, and was corrected substantially by § 307(f) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1755). For the subsection in effect before that date, see Appendix II.A.2.

^{103a} The matter after "torture" was inserted by § 203(a)(3) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4311, Oct. 25, 1994), applicable to convictions occurring before, on, or after October 25, 1994, under § 203(c) of that Act.

¹⁰⁴ Subsection (i) was amended in its entirety by § 601(d)(5) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5077), effective June 1, 1991. For the subsection in effect before that date, see Appendix II.A.2.

(j)(1) The additional requirements referred to in section 101(a)(15)(J) for an alien who is coming to the United States under a program under which he will receive graduate medical education or training are as follows:

(A) A school of medicine or of one of the other health professions, which is accredited by a body or bodies approved for the purpose by the Secretary of Education, has agreed in writing to provide the graduate medical education or training under the program for which the alien is coming to the United States or to assume responsibility for arranging for the provision thereof by an appropriate public or nonprofit private institution or agency, except that, in the case of such an agreement by a school of medicine, any one or more of its affiliated hospitals which are to participate in the provision of the graduate medical education or training must join in the agreement.

(B) Before making such agreement, the accredited school has been satisfied that the alien (i) is a graduate of a school of medicine which is accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States); or (ii)(I) has passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health and Human Services), (II) has competency in oral and written English, (III) will be able to adapt to the educational and cultural environment in which he will be receiving his education or training, and (IV) has adequate prior education and training to participate satisfactorily in the program for which he is coming to the United States. For the purposes of this subparagraph, an alien who is a graduate of a medical school shall be considered to have passed parts I and II of the National Board of Medical Examiners examination if the alien was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date.

(C) The alien has made a commitment to return to the country of his nationality or last residence upon completion of the education or training for which he is coming to the United States, and the government of the country of his nationality or last residence has provided a written assurance, satisfactory to the Secretary of Health and Human Services, that there is a need in that country for persons with the skills the alien will acquire in such education or training.

(D) The duration of the alien's participation in the program of graduate medical education or training for which the alien is coming to the United States is limited to the time typically required to complete such program, as determined by the Director of the United States Information Agency at the time of the alien's entry into the United States, based on criteria which are established in coordination with the Secretary of Health and Human Services and which take into consideration the published requirements of the medical specialty board which administers such education or training program; except that—

(i) such duration is further limited to seven years unless the alien has demonstrated to the satisfaction of the Director that the country to which the alien will return at the end of such specialty education or training has an exceptional need for an individual trained in such specialty, and

(ii) the alien may, once and not later than two years after the date the alien enters the United States as an exchange visitor or acquires exchange visitor status, change the alien's designated program of graduate medical education or training if the Director approves the change and if a commitment and written assurance with respect to the alien's new program have been provided in accordance with subparagraph (C).

(E) The alien furnishes the Attorney General each year with an affidavit (in such form as the Attorney General shall prescribe) that attests that the alien (i) is in good standing in the program of graduate medical education or training in which the alien is participating, and (ii) will return to the country of his nationality or last residence upon completion of the education or training for which he came to the United States.

(2)¹⁰⁵ An alien who is a graduate of a medical school and who is coming to the United States to perform services as a member of the medical profession may not be admitted as a nonimmigrant under section 101(a)(15)(H)(i)(b) unless—

(A) the alien is coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency, or

(B)(i) the alien has passed the Federation licensing examination (administered by the Federation of State Medical Boards of the United States) or an equivalent examination as determined by the Secretary of Health and Human Services, and

(ii)(I) has competency in oral and written English or (II) is a graduate of a school of medicine which is accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States).

(3) The Director of the United States Information Agency annually shall transmit to the Congress a report on aliens who have submitted affidavits described in paragraph (1)(E), and shall include in such report the name and address of each such alien, the medical education or training program in which such alien is participating, and the status of such alien in that program.

(k) Any alien, excludable from the United States under paragraph (5)(A) or (7)(A)(i)¹⁰⁶ of subsection (a), who is in possession

¹⁰⁵ Paragraph (2) was amended to read as shown by § 303(a)(5)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1747).

¹⁰⁶ § 601(d)(6) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5077), effective June 1, 1991, substituted for the reference to paragraphs (14), (20), and (21) the references shown.

of an immigrant visa may, if otherwise admissible, be admitted in the discretion of the Attorney General if the Attorney General is satisfied that exclusion was not known to, and could not have been ascertained by the exercise of reasonable diligence by, the immigrant before the time of departure of the vessel or aircraft from the last port outside the United States and outside foreign contiguous territory or, in the case of an immigrant coming from foreign contiguous territory, before the time of the immigrant's application for admission.

(1)(1) The requirement of paragraph (7)(B)(i)¹⁰⁷ of subsection (a) of this section may be waived by the Attorney General, the Secretary of State, and the Secretary of the Interior, acting jointly, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and stay on Guam for a period not to exceed fifteen days, if the Attorney General, the Secretary of State and the Secretary of the Interior, after consultation with the Governor of Guam, jointly determine that—

(A) an adequate arrival and departure control system has been developed on Guam, and

(B) such a waiver does not represent a threat to the welfare, safety, or security of the United States or its territories and commonwealths.

(2) An alien may not be provided a waiver under this subsection unless the alien has waived any right—

(A) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into Guam, or

(B) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

(3) If adequate appropriated funds to carry out this subsection are not otherwise available, the Attorney General is authorized to accept from the Government of Guam such funds as may be tendered to cover all or any part of the cost of administration and enforcement of this subsection.

(m)(1)¹⁰⁸ The qualifications referred to in section 101(a)(15)(H)(i)(a), with respect to an alien who is coming to the United States to perform nursing services for a facility, are that the alien—

(A) has obtained a full and unrestricted license to practice professional nursing in the country where the alien obtained nursing education or has received nursing education in the United States or Canada;

(B) has passed an appropriate examination (recognized in regulations promulgated in consultation with the Secretary of Health and Human Services) or has a full and unrestricted li-

¹⁰⁷ § 601(d)(7) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5077) effective June 1, 1991, substituted a reference to paragraph (7)(B)(i) to the reference to paragraph (26)(B).

¹⁰⁸ Subsection (m) was added by §3(b) of the Immigration Nursing Relief Act of 1989 (Pub. L. 101-238, Dec. 18, 1989), and applies, under §3(d) of such Act, to "classification petitions filed for nonimmigrant status only during the 5-year period beginning on [September 1, 1990] the first day of the 9th month beginning after the date of the enactment of this Act". For provision relating to regulations and implementation of this subsection, see §3(c) of such Act, shown in Appendix II.I.

cense under State law to practice professional nursing in the State of intended employment; and

(C) is fully qualified and eligible under the laws (including such temporary or interim licensing requirements which authorize the nurse to be employed) governing the place of intended employment to engage in the practice of professional nursing as a registered nurse immediately upon admission to the United States and is authorized under such laws to be employed by the facility.

(2)(A) The attestation referred to in section 101(a)(15)(H)(i)(a) is an attestation as to the following:

(i) There would be a substantial disruption through no fault of the facility in the delivery of health care services of the facility without the services of such an alien or aliens.

(ii) The employment of the alien will not adversely affect the wages and working conditions of registered nurses similarly employed.

(iii) The alien employed by the facility will be paid the wage rate for registered nurses similarly employed by the facility.

(iv) Either (I) the facility has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses, or (II) the facility is subject to an approved State plan for the recruitment and retention of nurses (described in paragraph (3)).

(v) There is not a strike or lockout in the course of a labor dispute, and the employment of such an alien is not intended or designed to influence an election for a bargaining representative for registered nurses of the facility.

(vi) At the time of the filing of the petition for registered nurses under section 101(a)(15)(H)(i)(a), notice of the filing has been provided by the facility to the bargaining representative of the registered nurses at the facility or, where there is no such bargaining representative, notice of the filing has been provided to registered nurses employed at the facility through posting in conspicuous locations.

A facility is considered not to meet clause (i) (relating to an attestation of a substantial disruption in delivery of health care services) if the facility, within the previous year, laid off registered nurses. Notwithstanding the previous sentence, a facility that lays off a registered nurse other than a staff nurse still meets clause (i) if, in its attestation under this subparagraph, the facility has attested that it will not replace the nurse with a nonimmigrant described in section 101(a)(15)(H)(i)(a) (either through promotion or otherwise) for a period of 1 year after the date of the lay off. Nothing in clause (iv) shall be construed as requiring a facility to have taken significant steps described in such clause before the date of

the enactment of this subsection.¹⁰⁹ In the case of an alien for whom an employer has filed an attestation under this subparagraph and who is performing services at a worksite other than the employer's or other than a worksite controlled by the employer, the Secretary may waive such requirements for the attestation for the worksite as may be appropriate in order to avoid duplicative attestations, in cases of temporary, emergency circumstances, with respect to information not within the knowledge of the attestor, or for other good cause.

(B) For purposes of subparagraph (A)(iv)(I), each of the following shall be considered a significant step reasonably designed to recruit and retain registered nurses:

(i) Operating a training program for registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

(ii) Providing career development programs and other methods of facilitating health care workers to become registered nurses.

(iii) Paying registered nurses wages at a rate higher than currently being paid to registered nurses similarly employed in the geographic area.

(iv) Providing adequate support services to free registered nurses from administrative and other nonnursing duties.

(v) Providing reasonable opportunities for meaningful salary advancement by registered nurses.

The steps described in this subparagraph shall not be considered to be an exclusive list of the significant steps that may be taken to meet the conditions of subparagraph (A)(iv)(I). Nothing herein shall require a facility to take more than one step, if the facility can demonstrate that taking a second step is not reasonable.

(C) Subject to subparagraph (E), an attestation under subparagraph (A) shall—

(i) expire at the end of the 1-year period beginning on the date of its filing with the Secretary of Labor, and

(ii) apply to petitions filed during such 1-year period if the facility states in each such petition that it continues to comply with the conditions in the attestation.

(D) A facility may meet the requirements under this paragraph with respect to more than one registered nurse in a single petition.

(E)(i) The Secretary of Labor shall compile and make available for public examination in a timely manner in Washington, D.C., a list identifying facilities which have filed petitions for nonimmigrants under section 101(a)(15)(H)(i)(a) and, for each such facility, a copy of the facility's attestation under subparagraph (A) (and accompanying documentation) and each such petition filed by the facility.

(ii) The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a facility's failure to meet conditions attested to or a facility's misrep-

¹⁰⁹The next to last sentence was inserted by § 302(e)(9) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1745), effective as if included in the Immigration Nursing Relief Act of 1989. The last sentence was added by § 162(f)(2)(B) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5012), effective as if included in the Immigration Nursing Relief Act of 1989.

sentation of a material fact in an attestation. Complaints may be filed by any aggrieved person or organization (including bargaining representatives, associations deemed appropriate by the Secretary, and other aggrieved parties as determined under regulations of the Secretary). The Secretary shall conduct an investigation under this clause if there is reasonable cause to believe that a facility fails to meet conditions attested to.

(iii) Under such process, the Secretary shall provide, within 180 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to make a finding described in clause (iv). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint within 60 days of the date of the determination.

(iv) If the Secretary of Labor finds, after notice and opportunity for a hearing, that a facility (for which an attestation is made) has failed to meet a condition attested to or that there was a misrepresentation of material fact in the attestation, the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed \$1,000 per violation) as the Secretary determines to be appropriate. Upon receipt of such notice, the Attorney General shall not approve petitions filed with respect to a facility during a period of at least 1 year for nurses to be employed by the facility.

(v) In addition to the sanctions provided under clause (iv), if the Secretary of Labor finds, after notice and an opportunity for a hearing, that a facility has violated the condition attested to under subparagraph (A)(iii) (relating to payment of registered nurses at the prevailing wage rate), the Secretary shall order the facility to provide for payment of such amounts of back pay as may be required to comply with such condition.

(3) The Secretary of Labor shall provide for a process under which a State may submit to the Secretary a plan for the recruitment and retention of United States citizens and immigrants who are authorized to perform nursing services as registered nurses in facilities in the State. Such a plan may include counseling and educating health workers and other individuals concerning the employment opportunities available to registered nurses. The Secretary shall provide, on an annual basis in consultation with the Secretary of Health and Human Services, for the approval or disapproval of such a plan, for purposes of paragraph (2)(A)(iv)(II). Such a plan may not be considered to be approved with respect to the facility unless the plan provides for the taking of significant steps described in paragraph (2)(A)(iv)(I) with respect to registered nurses in the facility.

(4) The period of admission of an alien under section 101(a)(15)(H)(i)(a) shall be for an initial period of not to exceed 3 years, subject to an extension for a period or periods, not to exceed a total period of admission of 5 years (or a total period of admission of 6 years in the case of extraordinary circumstances, as determined by the Attorney General).

(5) For purposes of this subsection and section 101(a)(15)(H)(i)(a), the term "facility" includes an employer who employs registered nurses in a home setting.

(n)(1)¹¹⁰ No alien may be admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) in an occupational classification unless the employer has filed with the Secretary of Labor an application stating the following:

(A) The employer—

(i) is offering and will offer during the period of authorized employment to aliens admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) wages that are at least—

(I) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question, or

(II) the prevailing wage level for the occupational classification in the area of employment, whichever is greater, based on the best information available as of the time of filing the application, and

(ii) will provide working conditions for such a nonimmigrant that will not adversely affect the working conditions of workers similarly employed.

(B) There is not a strike or lockout in the course of a labor dispute in the occupational classification at the place of employment.

(C) The employer, at the time of filing the application—

(i) has provided notice of the filing under this paragraph to the bargaining representative (if any) of the employer's employees in the occupational classification and area for which aliens are sought, or

(ii) if there is no such bargaining representative, has posted notice of filing in conspicuous locations at the place of employment.

(D) The application shall contain a specification of the number of workers sought, the occupational classification in which the workers will be employed, and wage rate and conditions under which they will be employed.

The employer shall make available for public examination, within one working day after the date on which an application under this paragraph is filed, at the employer's principal place of business or worksite, a copy of each such application (and such accompanying documents as are necessary). The Secretary shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under this subsection. Such list shall include the wage rate, number of aliens sought, period of intended employ-

¹¹⁰ Subsection (n) was added by § 205(c)(3) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5020), effective October 1, 1991, under § 231 of such Act, and was amended by § 303(a)(7)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1747), effective as if included in the Immigration Act of 1990. Paragraph (8) of § 303(a) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1748) provides as follows:

(8) The Secretary of Labor shall issue final or interim final regulations to implement the changes made by this section [viz., § 303 of P.L. 102-232] to section 101(a)(15)(H)(i)(b) and section 212(n) of the Immigration and Nationality Act no later than January 2, 1992.

ment, and date of need. The Secretary shall make such list available for public examination in Washington, D.C. The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary finds that the application is incomplete or obviously inaccurate, the Secretary shall provide the certification described in section 101(a)(15)(H)(i)(b) within 7 days of the date of the filing of the application.

(2)(A) The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in an application submitted under paragraph (1) or a petitioner's misrepresentation of material facts in such an application. Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, respectively. The Secretary shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

(B) Under such process, the Secretary shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C). If the Secretary determines that such a reasonable basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary shall make a finding concerning the matter by not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary may consolidate the hearings under this subparagraph on such complaints.

(C) If the Secretary finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(B), a substantial failure to meet a condition of paragraphs (1)(C) or (1)(D), a willful failure to meet a condition of paragraph (1)(A), or a misrepresentation of material fact in an application—

(i) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed \$1,000 per violation) as the Secretary determines to be appropriate, and

(ii) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 1 year for aliens to be employed by the employer.

(D) If the Secretary finds, after notice and opportunity for a hearing, that an employer has not paid wages at the wage level specified under the application and required under paragraph (1), the Secretary shall order the employer to provide for payment of such amounts of back pay as may be required to comply with the requirements of paragraph (1), whether or not a penalty under subparagraph (C) has been imposed.

(o) ^{110a} An alien who has been physically present in the United States shall not be eligible to receive an immigrant visa within ninety days following departure therefrom unless—

(1) the alien was maintaining a lawful nonimmigrant status at the time of such departure, or

(2) the alien is the spouse or unmarried child of an individual who obtained temporary or permanent resident status under section 210 or 245A of the Immigration and Nationality Act or section 202 of the Immigration Reform and Control Act of 1986 at any date, who—

(A) as of May 5, 1988, was the unmarried child or spouse of the individual who obtained temporary or permanent resident status under section 210 or 245A of the Immigration and Nationality Act or section 202 of the Immigration Reform and Control Act of 1986;

(B) entered the United States before May 5, 1988, resided in the United States on May 5, 1988, and is not a lawful permanent resident; and

(C) applied for benefits under section 301(a) of the Immigration Act of 1990.

ADMISSION OF CERTAIN ALIENS ON GIVING BOND

SEC. 213. [8 U.S.C. 1183] An alien excludable under paragraph (4) ¹¹¹ of section 212(a) may, if otherwise admissible, be admitted in the discretion of the Attorney General upon the giving of a suitable and proper bond or undertaking approved by the Attorney General, in such amount and containing such conditions as he may prescribe, to the United States, and to all States, territories, counties, towns, municipalities, and districts thereof holding the United States and all States, territories, counties, towns, municipalities, and districts thereof harmless against such alien becoming a public charge. Such bond or undertaking shall terminate upon the permanent departure from the United States, the naturalization, or the death of such alien, and any sums or other security held to secure performance thereof, except to the extent forfeited for violation of the terms thereof, shall be returned to the person by whom furnished, or to his legal representatives. Suit may be brought thereon in the name and by the proper law officers of the United States for the use of the United States, or of any State, territory, district, county, town, or municipality in which such alien becomes a public charge, irrespective of whether a demand for payment of public expenses has been made.

ADMISSION OF NONIMMIGRANTS

SEC. 214. [8 U.S.C. 1184] (a)(1) The admission to the United States of any alien as a nonimmigrant shall be for such time and under such conditions as the Attorney General may by regulations

^{110a} Subsection (o) was added by subsection (a) of § 506 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995 (P.L. 103-317, 108 Stat. 1765, Aug. 26, 1994), effective on October 1, 1994 through September 30, 1997, under subsection (c) of that section.

¹¹¹ § 603(a)(8) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5083) substituted a reference to paragraph (4) for a reference to paragraphs (7) and (15) and inserted the phrase beginning “, irrespective” at the end.

prescribe, including when he deems necessary the giving of a bond with sufficient surety in such sum and containing such conditions as the Attorney General shall prescribe, to insure that at the expiration of such time or upon failure to maintain the status under which he was admitted, or to maintain any status subsequently acquired under section 248, such alien will depart from the United States. No alien admitted to Guam without a visa pursuant to section 212(l) may be authorized to enter or stay in the United States other than in Guam or to remain in Guam for a period exceeding fifteen days from date of admission to Guam. No alien admitted to the United States without a visa pursuant to section 217 may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding 90 days from the date of admission.

(2)(A)¹¹² The period of authorized status as a nonimmigrant described in section 101(a)(15)(O) shall be for such period as the Attorney General may specify in order to provide for the event (or events) for which the nonimmigrant is admitted.

(B) The period of authorized status as a nonimmigrant described in section 101(a)(15)(P) shall be for such period as the Attorney General may specify in order to provide for the competition, event, or performance for which the nonimmigrant is admitted. In the case of nonimmigrants admitted as individual athletes under section 101(a)(15)(P), the period of authorized status may be for an initial period (not to exceed 5 years) during which the nonimmigrant will perform as an athlete and such period may be extended by the Attorney General for an additional period of up to 5 years.

(b) Every alien (other than a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15))¹¹³ shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for a visa, and the immigration officers, at the time of application for admission, that he is entitled to a nonimmigrant status under section 101(a)(15). An alien who is an officer or employee of any foreign government or of any international organization entitled to enjoy privileges, exemptions, and immunities under the International Organizations Immunities Act [22 U.S.C. 288, note], or an alien who is the attendant, servant, employee, or member of the immediate family of any such alien shall not be entitled to apply for or receive an immigrant visa, or to enter the United States as an immigrant unless he executes a written waiver in the same form and substance as is prescribed by section 247(b).

(c)(1)¹¹⁴ The question of importing any alien as a nonimmigrant under section 101(a)(15)(H), (L), (O), or (P)(i) in any specific case or specific cases shall be determined by the Attorney General, after consultation with appropriate agencies of the Govern-

¹¹² Paragraph (2) was added by § 207(b)(1) of the Immigration Act of 1990 (104 Stat. 5025) and amended by § 205(d) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1740).

¹¹³ The phrase "(other than a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15))" was inserted by § 205(b)(1) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5019), effective October 1, 1991.

¹¹⁴ § 3 of the Virgin Islands Nonimmigrant Alien Adjustment Act of 1982 (Pub. L. 97-271, Sept. 30, 1982, 96 Stat. 1159), shown in Appendix IV.D., terminates approval of petitions for H-2 temporary workers in the Virgin Islands (except for entertainers and athletes for a 45-day period), effective September 30, 1982.

ment, upon petition of the importing employer. Such petition shall be made and approved before the visa is granted. The petition shall be in such form and contain such information as the Attorney General shall prescribe. The approval of such a petition shall not, of itself, be construed as establishing that the alien is a nonimmigrant. For purposes of this subsection with respect to nonimmigrants described in section 101(a)(15)(H)(ii)(a), the term "appropriate agencies of Government" means the Department of Labor and includes the Department of Agriculture. The provisions of section 218 shall apply to the question of importing any alien as a nonimmigrant under section 101(a)(15)(H)(ii)(a).

(2)(A)¹¹⁵ The Attorney General shall provide for a procedure under which an importing employer which meets requirements established by the Attorney General may file a blanket petition to import aliens as nonimmigrants described in section 101(a)(15)(L) instead of filing individual petitions under paragraph (1) to import such aliens. Such procedure shall permit the expedited processing of visas for entry of aliens covered under such a petition.

(B) For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.¹¹⁶

(C) The Attorney General shall provide a process for reviewing and acting upon petitions under this subsection with respect to nonimmigrants described in section 101(a)(15)(L) within 30 days after the date a completed petition has been filed.

(D) The period of authorized admission for—

(i) a nonimmigrant admitted to render services in a managerial or executive capacity under section 101(a)(15)(L) shall not exceed 7 years, or

(ii) a nonimmigrant admitted to render services in a capacity that involves specialized knowledge under section 101(a)(15)(L) shall not exceed 5 years.

(3)¹¹⁷ The Attorney General shall approve a petition—

(A) with respect to a nonimmigrant described in section 101(a)(15)(O)(i) only after consultation in accordance with paragraph (6) or, with respect to aliens seeking entry for a motion picture or television production, after consultation with the appropriate union representing the alien's occupational peers and a management organization in the area of the alien's ability, or

(B) with respect to a nonimmigrant described in section 101(a)(15)(O)(ii) after consultation in accordance with paragraph (6) or, in the case of such an alien seeking entry for a

¹¹⁵ Paragraph (2) was added by § 206(b)(2) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5023), effective October 1, 1991, under § 231 of that Act.

¹¹⁶ The 3-month out-of-country rule for P-2's and P-3's, previously contained in clause (ii) of this subparagraph, was stricken by § 206(a) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1740).

¹¹⁷ Paragraphs (3) through (5) and (7) [as redesignated by § 204(5) of P.L. 102-232] were added by § 207(b)(2)(B) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5025), and amended by title II of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1736 et seq.), effective April 1, 1992.

(iii)(I) The one-year relationship requirement of clause (i)(II) shall not apply to 25 percent of the performers and entertainers in a group.

(II) The Attorney General may waive such one-year relationship requirement for an alien who because of illness or unanticipated and exigent circumstances replaces an essential member of the group and for an alien who augments the group by performing a critical role.

(iv) The requirements of subclauses (I) and (II) of clause (i) shall not apply to alien circus personnel who perform as part of a circus or circus group or who constitute an integral and essential part of the performance of such circus or circus group, but only if such personnel are entering the United States to join a circus that has been recognized nationally as outstanding for a sustained and substantial period of time or as part of such a circus.

(C)¹¹⁹ A person may petition the Attorney General for classification of an alien as a nonimmigrant under section 101(a)(15)(P).

(D)¹¹⁹ The Attorney General shall approve petitions under this subsection with respect to nonimmigrants described in clause (i) or (iii) of section 101(a)(15)(P) only after consultation in accordance with paragraph (6).

(E)¹¹⁹ The Attorney General shall approve petitions under this subsection for nonimmigrants described in section 101(a)(15)(P)(ii) only after consultation with labor organizations representing artists and entertainers in the United States.

(5)(A)¹¹⁷ In the case of an alien who is provided nonimmigrant status under section 101(a)(15)(H)(i)(b) or 101(a)(15)(H)(ii)(b) and who is dismissed from employment by the employer before the end of the period of authorized admission, the employer shall be liable for the reasonable costs of return transportation of the alien abroad.

(B)¹²⁰ In the case of an alien who enters the United States in nonimmigrant status under section 101(a)(15)(O) or 101(a)(15)(P) and whose employment terminates for reasons other than voluntary resignation, the employer whose offer of employment formed the basis of such nonimmigrant status and the petitioner are jointly and severally liable for the reasonable cost of return transportation of the alien abroad. The petitioner shall provide assurance satisfactory to the Attorney General that the reasonable cost of that transportation will be provided.

(6)(A)(i)¹²¹ To meet the consultation requirement of paragraph (3)(A) in the case of a petition for a nonimmigrant described in section 101(a)(15)(O)(i) (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a peer group (or other person or persons of its choosing, which may in-

¹²⁰ Subparagraph (B) was added by § 207(a) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1741), effective April 1, 1992.

¹²¹ Paragraph (6) was added by § 204(6) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1738), effective April 1, 1992.

NOTE.—See footnote 117 on page 100 and footnote 119 on previous page.

motion picture or television production, after consultation with such a labor organization and a management organization in the area of the alien's ability.

In the case of an alien seeking entry for a motion picture or television production, (i) any opinion under the previous sentence shall only be advisory, (ii) any such opinion that recommends denial must be in writing, (iii) in making the decision the Attorney General shall consider the exigencies and scheduling of the production, and (iv) the Attorney General shall append to the decision any such opinion. The Attorney General shall provide by regulation for the waiver of the consultation requirement under subparagraph (A) in the case of aliens who have been admitted as nonimmigrants under section 101(a)(15)(O)(i) because of extraordinary ability in the arts and who seek readmission to perform similar services within 2 years after the date of a consultation under such subparagraph. Not later than 5 days after the date such a waiver is provided, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization.¹¹⁸

(4)(A)^{117 119} For purposes of section 101(a)(15)(P)(i)(a), an alien is described in this subparagraph if the alien—

(i) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance, and

(ii) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition.

(B)(i) For purposes of section 101(a)(15)(P)(i)(b), an alien is described in this subparagraph if the alien—

(I) performs with or is an integral and essential part of the performance of an entertainment group that has (except as provided in clause (ii)) been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time,

(II) in the case of a performer or entertainer, except as provided in clause (iii), has had a sustained and substantial relationship with that group (ordinarily for at least one year) and provides functions integral to the performance of the group, and

(III) seeks to enter the United States temporarily and solely for the purpose of performing as such a performer or entertainer or as an integral and essential part of a performance.

(ii) In the case of an entertainment group that is recognized nationally as being outstanding in its discipline for a sustained and substantial period of time, the Attorney General may, in consideration of special circumstances, waive the international recognition requirement of clause (i)(I).

¹¹⁸ The last 2 sentences were added by § 205(e) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1740), effective April 1, 1992.

¹¹⁹ Subparagraphs (A) & (B) were inserted (and previous subparagraphs (A)—(C) were redesignated as subparagraphs (C)—(E)) by § 203(b) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1737), effective April 1, 1992.

NOTE.—See footnote 117 on previous page.

(7)¹¹⁷ If a petition is filed and denied under this subsection, the Attorney General shall notify the petitioner of the determination and the reasons for the denial and of the process by which the petitioner may appeal the determination.

(8)¹²² The Attorney General shall submit annually to the Committees on the Judiciary of the House of Representatives and of the Senate a report describing, with respect to petitions under each subcategory of subparagraphs (H), (O), (P), and (Q) of section 101(a)(15) the following:

(A) The number of such petitions which have been filed.

(B) The number of such petitions which have been approved and the number of workers (by occupation) included in such approved petitions.

(C) The number of such petitions which have been denied and the number of workers (by occupation) requested in such denied petitions.

(D) The number of such petitions which have been withdrawn.

(E) The number of such petitions which are awaiting final action.

(d) A visa shall not be issued under the provisions of section 101(a)(15)(K) until the consular officer has received a petition filed in the United States by the fiancée or fiancé of the applying alien and approved by the Attorney General. The petition shall be in such form and contain such information as the Attorney General shall, by regulation, prescribe. It shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within 2 years before the date of filing the petition, have a bona fide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival, except that the Attorney General in his discretion may waive the requirement that the parties have previously met in person. In the event the marriage with the petitioner does not occur within three months after the entry of the said alien and minor children, they shall be required to depart from the United States and upon failure to do so shall be deported in accordance with sections 242 and 243.

(e)(1) Notwithstanding any other provision of this Act, an alien who is a citizen of Canada and seeks to enter the United States under and pursuant to the provisions of Annex 1502.1 (United States of America),¹²³ Part C—Professionals, of the United States–Canada Free–Trade Agreement to engage in business activities at a professional level as provided for therein may be admitted for such purpose under regulations of the Attorney General promulgated after consultation with the Secretaries of State and Labor.

¹²² Paragraph (8) was added by §207(c)(1) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102–232, Dec. 12, 1991, 105 Stat. 1741). Section 207(c)(2) of that Act (105 Stat. 1742) requires the first report under this paragraph to be provided not later than April 1, 1993.

NOTE.—See footnote 117 on p. 100.

¹²³ For provisions of Annex 1502.1, see Appendix VI.

clude a labor organization) with expertise in the specific field involved.

(ii) To meet the consultation requirement of paragraph (3)(B) in the case of a petition for a nonimmigrant described in section 101(a)(15)(O)(ii) (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the skill area involved.

(iii) To meet the consultation requirement of paragraph (4)(D) in the case of a petition for a nonimmigrant described in section 101(a)(15)(P)(i) or 101(a)(15)(P)(iii), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the specific field of athletics or entertainment involved.

(B) To meet the consultation requirements of subparagraph (A), unless the petitioner submits with the petition an advisory opinion from an appropriate labor organization, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization within 5 days of the date of receipt of the petition. If there is a collective bargaining representative of an employer's employees in the occupational classification for which the alien is being sought, that representative shall be the appropriate labor organization.

(C) In those cases in which a petitioner described in subparagraph (A) establishes that an appropriate peer group (including a labor organization) does not exist, the Attorney General shall adjudicate the petition without requiring an advisory opinion.

(D) Any person or organization receiving a copy of a petition described in subparagraph (A) and supporting documents shall have no more than 15 days following the date of receipt of such documents within which to submit a written advisory opinion or comment or to provide a letter of no objection. Once the 15-day period has expired and the petitioner has had an opportunity, where appropriate, to supply rebuttal evidence, the Attorney General shall adjudicate such petition in no more than 14 days. The Attorney General may shorten any specified time period for emergency reasons if no unreasonable burden would be thus imposed on any participant in the process.

(E)(i) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant artists or entertainers described in section 101(a)(15)(O) or 101(a)(15)(P) to accommodate the exigencies and scheduling of a given production or event.

(ii) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant athletes described in section 101(a)(15)(O)(i) or 101(a)(15)(P)(i) in the case of emergency circumstances (including trades during a season).

(F) No consultation required under this subsection by the Attorney General with a nongovernmental entity shall be construed as permitting the Attorney General to delegate any authority under this subsection to such an entity. The Attorney General shall give such weight to advisory opinions provided under this section as the Attorney General determines, in his sole discretion, to be appropriate.

(2)^{123a} An alien who is a citizen of Canada or Mexico, and the spouse and children of any such alien if accompanying or following to join such alien, who seeks to enter the United States under and pursuant to the provisions of Section D of Annex 1603 of the North American Free Trade Agreement (in this subsection referred to as “NAFTA”) to engage in business activities at a professional level as provided for in such Annex, may be admitted for such purpose under regulations of the Attorney General promulgated after consultation with the Secretaries of State and Labor. For purposes of this Act, including the issuance of entry documents and the application of subsection (b), such alien shall be treated as if seeking classification, or classifiable, as a nonimmigrant under section 101(a)(15). The admission of an alien who is a citizen of Mexico shall be subject to paragraphs (3), (4), and (5). For purposes of this paragraph and paragraphs (3), (4), and (5), the term “citizen of Mexico” means “citizen” as defined in Annex 1608 of NAFTA.

(3) The Attorney General shall establish an annual numerical limit on admissions under paragraph (2) of aliens who are citizens of Mexico, as set forth in Appendix 1603.D.4 of Annex 1603 of the NAFTA. Subject to paragraph (4), the annual numerical limit—

(A) beginning with the second year that NAFTA is in force, may be increased in accordance with the provisions of paragraph 5(a) of Section D of such Annex, and

(B) shall cease to apply as provided for in paragraph 3 of such Appendix.

(4) The annual numerical limit referred to in paragraph (3) may be increased or shall cease to apply (other than by operation of paragraph 3 of such Appendix) only if—

(A) the President has obtained advice regarding the proposed action from the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155);

(B) the President has submitted a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that sets forth—

(i) the action proposed to be taken and the reasons therefor, and

(ii) the advice obtained under subparagraph (A);

(C) a period of at least 60 calendar days that begins on the first day on which the President has met the requirements of subparagraphs (A) and (B) with respect to such action has expired; and

(D) the President has consulted with such committees regarding the proposed action during the period referred to in subparagraph (C).

(5) During the period that the provisions of Appendix 1603.D.4 of Annex 1603 of the NAFTA apply, the entry of an alien who is a citizen of Mexico under and pursuant to the provisions of Section D of Annex 1603 of NAFTA shall be subject to the attestation requirement of section 212(m), in the case of a registered nurse, or the application requirement of section 212(n), in the case of all

^{123a} Paragraphs (2) through (5) were added by section 341(b) of the North American Free Trade Agreement Implementation Act (P.L. 103-182, 107 Stat. 2116, Dec. 8, 1993), effective as of January 1, 1994, under § 342 of that Act.

other professions set out in Appendix 1603.D.1 of Annex 1603 of NAFTA, and the petition requirement of subsection (c), to the extent and in the manner prescribed in regulations promulgated by the Secretary of Labor, with respect to sections 212(m) and 212(n), and the Attorney General, with respect to subsection (c).

(f)(1)¹²⁴ Except as provided in paragraph (3), no alien shall be entitled to nonimmigrant status described in section 101(a)(15)(D) if the alien intends to land for the purpose of performing service on board a vessel of the United States (as defined in section 2101(46) of title 46, United States Code) or on an aircraft of an air carrier (as defined in section 101(3) of the Federal Aviation Act of 1958) during a labor dispute where there is a strike or lockout in the bargaining unit of the employer in which the alien intends to perform such service.

(2) An alien described in paragraph (1)—

(A) may not be paroled into the United States pursuant to section 212(d)(5) unless the Attorney General determines that the parole of such alien is necessary to protect the national security of the United States; and

(B) shall be considered not to be a bona fide crewman for purposes of section 252(b).

(3) Paragraph (1) shall not apply to an alien if the air carrier or owner or operator of such vessel that employs the alien provides documentation that satisfies the Attorney General that the alien—

(A) has been an employee of such employer for a period of not less than 1 year preceding the date that a strike or lawful lockout commenced;

(B) has served as a qualified crewman for such employer at least once in each of 3 months during the 12-month period preceding such date; and

(C) shall continue to provide the same services that such alien provided as such a crewman.

(g)(1)¹²⁵ The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year (beginning with fiscal year 1992)—

(A) under section 101(a)(15)(H)(i)(b) may not exceed 65,000, or

(B) under section 101(a)(15)(H)(ii)(b) may not exceed 66,000.

¹²⁴ Subsection (f) was added by § 202(a) of the Immigration Act of 1990 (P.L. 101-649, Nov 29, 1990, 104 Stat. 5014), effective January 27, 1991; pursuant to § 6(b) of Public Law 103-272 (108 Stat. 1378), the reference to "section 101(3) of the Federal Aviation Act of 1958" is deemed to refer to "section 40102(a)(2) of title 49, United States Code".

¹²⁵ Subsection (g) was added by § 205(a) of the Immigration Act of 1990 (P.L. 101-649, Nov 29, 1990, 104 Stat. 5019). Subparagraph (C) of paragraph (1) was repealed by § 202(a)(3) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1737), effective April 1, 1992. Section 3 of the Armed Forces Immigration Adjustment Act of 1991 (P.L. 102-110, Oct. 1, 1991, 105 Stat. 557), provides as follows

SEC. 3. DELAY UNTIL APRIL 1, 1992, IN IMPLEMENTATION OF PROVISIONS RELATING TO O AND P NONIMMIGRANTS.

Section 214(g)(1)(C) of the Immigration and Nationality Act shall not apply to the issuance of visas or provision of status before April 1, 1992. Aliens seeking nonimmigrant admission as artists, athletes, entertainers, or fashion models (or for the purpose of accompanying or assisting in an artistic or athletic performance) before April 1, 1992, shall not be admitted under subparagraph (O)(i), (O)(ii), (P)(i), or (P)(iii) of section 101(a)(15) of such Act, but may be admitted under the terms of subparagraph (H)(i)(b) of such section (as in effect on September 30, 1991).

NOTE.—There is no footnote #126.

(2) The numerical limitations of paragraph (1) shall only apply to principal aliens and not to the spouses or children of such aliens.

(3) Aliens who are subject to the numerical limitations of paragraph (1) shall be issued visas (or otherwise provided non-immigrant status) in the order in which petitions are filed for such visas or status.

(4) In the case of a nonimmigrant described in section 101(a)(15)(H)(i)(b), the period of authorized admission as such a nonimmigrant may not exceed 6 years.

(h) ¹²⁷ The fact that an alien is the beneficiary of an application for a preference status filed under section 204 or has otherwise sought permanent residence in the United States shall not constitute evidence of an intention to abandon a foreign residence for purposes of obtaining a visa as a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15) or otherwise obtaining or maintaining the status of a nonimmigrant described in such subparagraph, if the alien had obtained a change of status under section 248 to a classification as such a nonimmigrant before the alien's most recent departure from the United States.

(i)(1) ¹²⁸ For purposes of section 101(a)(15)(H)(i)(b) and paragraph (2), the term "specialty occupation" means an occupation that requires—

(A) theoretical and practical application of a body of highly specialized knowledge, and

(B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

(2) For purposes of section 101(a)(15)(H)(i)(b), the requirements of this paragraph, with respect to a specialty occupation, are—

(A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation,

(B) completion of the degree described in paragraph (1)(B) for the occupation, or

(C)(i) experience in the specialty equivalent to the completion of such degree, and (ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

【The provision corresponding to 8 U.S.C. 1184a is shown in footnote 7 to § 101(a)(15)(E).】

(j) ^{128a} Notwithstanding any other provision of this Act, an alien who is a citizen of Canada or Mexico who seeks to enter the United States under and pursuant to the provisions of Section B, Section C, or Section D of Annex 1603 of the North American Free Trade Agreement, shall not be classified as a nonimmigrant under such provisions if there is in progress a strike or lockout in the course of a labor dispute in the occupational classification at the place or intended place of employment, unless such alien establishes, pursuant to regulations promulgated by the Attorney Gen-

¹²⁷ Subsection (h) was added by § 205(b)(2) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5019), effective October 1, 1991.

¹²⁸ Subsection (i) was added by § 205(c)(2) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5020).

^{128a} This subsection (j) was added by § 341(c) of the North American Free Trade Agreement Implementation Act (P.L. 103-182, 107 Stat. 2117, Dec. 8, 1993), effective as of January 1, 1994, under § 342 of that Act.

eral, that the alien's entry will not affect adversely the settlement of the strike or lockout or the employment of any person who is involved in the strike or lockout. Notice of a determination under this subsection shall be given as may be required by paragraph 3 of article 1603 of such Agreement. For purposes of this subsection, the term "citizen of Mexico" means "citizen" as defined in Annex 1608 of such Agreement.

(j) ^{128b}(1) The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(i) in any fiscal year may not exceed 100. The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(ii) in any fiscal year may not exceed 25.

(2) No alien may be admitted into the United States as such a nonimmigrant more than 5 years after the date of the enactment of this subsection.

(3) The period of admission of an alien as such a nonimmigrant may not exceed 3 years. Such period may not be extended by the Attorney General.

(4) As a condition for the admission, and continued stay in lawful status, of such a nonimmigrant, the nonimmigrant—

(A) shall report not less often than quarterly to the Attorney General such information concerning the alien's whereabouts and activities as the Attorney General may require;

(B) may not be convicted of any criminal offense punishable by a term of imprisonment of 1 year or more after the date of such admission;

(C) must have executed a form that waives the nonimmigrant's right to contest, other than on the basis of an application for withholding of deportation, any action for deportation of the alien instituted before the alien obtains lawful permanent resident status; and

(D) shall abide by any other condition, limitation, or restriction imposed by the Attorney General.

(5) The Attorney General shall submit a report annually to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate concerning—

(A) the number of such nonimmigrants admitted;

(B) the number of successful criminal prosecutions or investigations resulting from cooperation of such aliens;

(C) the number of terrorist acts prevented or frustrated resulting from cooperation of such aliens;

(D) the number of such nonimmigrants whose admission or cooperation has not resulted in successful criminal prosecution or investigation or the prevention or frustration of a terrorist act; and

(E) the number of such nonimmigrants who have failed to report quarterly (as required under paragraph (4)) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.

^{128b} This subsection (j) was added by § 130003(b)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 2025, Sept. 13, 1994), effective with respect to aliens against whom deportation proceedings are initiated after September 13, 1994, under § 130004(d) of that Act.

(k)(1)^{128c} In the case of a request by an interested State agency for a waiver of the two-year foreign residence requirement under section 212(e) with respect to an alien described in clause (iii) of that section, the Attorney General shall not grant such waiver unless—

(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver;

(B) the alien demonstrates a bona fide offer of full-time employment at a health facility and agrees to begin employment at such facility within 90 days of receiving such waiver and agrees to continue to work in accordance with paragraph (2) at the health care facility in which the alien is employed for a total of not less than 3 years (unless the Attorney General determines that extenuating circumstances such as the closure of the facility or hardship to the alien would justify a lesser period of time);

(C) the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than 3 years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

(D) the grant of such waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed twenty.

(2)(A) Notwithstanding section 248(2), the Attorney General may change the status of an alien that qualifies under this subsection and section 212(e) to that of an alien described in section 101(a)(15)(H)(i)(b).

(B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of a contract with a health facility shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of non-immigrant status until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States.

(3) Notwithstanding any other provision of this subsection, the two-year foreign residence requirement under section 212(e) shall apply with respect to an alien described in clause (iii) of that section, who has not otherwise been accorded status under section 101(a)(27)(H), if at any time the alien practices medicine in an area other than an area described in paragraph (1)(C).

TRAVEL DOCUMENTATION OF ALIENS AND CITIZENS

SEC. 215. [8 U.S.C. 1185] (a) Unless otherwise ordered by the President, it shall be unlawful—

^{128c} Subsection (k) was added by § 220(b) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4319, Oct. 25, 1994), applicable to aliens admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act, or acquiring such status after admission to the United States, before, on, or after October 25, 1994, and before June 1, 1996; the subsection should have been designated as subsection (l).

(1) for any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President may prescribe;

(2) for any person to transport or attempt to transport from or into the United States another person with knowledge or reasonable cause to believe that the departure or entry of such other person is forbidden by this section;

(3) for any person knowingly to make any false statement in an application for permission to depart from or enter the United States with intent to induce or secure the granting of such permission either for himself or for another;

(4) for any person knowingly to furnish or attempt to furnish or assist in furnishing to another a permit or evidence of permission to depart or enter not issued and designed for such other person's use;

(5) for any person knowingly to use or attempt to use any permit or evidence of permission to depart or enter not issued and designed for his use;

(6) for any person to forge, counterfeit, mutilate, or alter, or cause or procure to be forged, counterfeited, mutilated, or altered, any permit or evidence of permission to depart from or enter the United States;

(7) for any person knowingly to use or attempt to use or furnish to another for use any false, forged, counterfeited, mutilated, or altered permit, or evidence of permission, or any permit or evidence of permission which, though originally valid, has become or been made void or invalid.

(b) Except as otherwise provided by the President and subject to such limitations and exceptions as the President may authorize and prescribe, it shall be unlawful for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States unless he bears a valid United States ^{128d} passport.

(c) The term "United States" as used in this section includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States. The term "person" as used in this section shall be deemed to mean any individual, partnership, association, company, or other incorporated body of individuals, or corporation, or body politic.

(d) Nothing in this section shall be construed to entitle an alien to whom a permit to enter the United States has been issued to enter the United States, if, upon arrival in the United States, he is found to be inadmissible under any of the provisions of this Act, or any other law, relating to the entry of aliens into the United States.

(e) The revocation of any rule, regulation, or order issued in pursuance of this section shall not prevent prosecution for any offense committed, or the imposition of any penalties or forfeitures, liability for which was incurred under this section prior to the revocation of such rule, regulation, or order.

^{128d} § 204(a) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4311, Oct. 25, 1994) inserted "United States", applicable to departures and entries (and attempts thereof) occurring on or after October 25, 1994, under § 204(b) of that Act.

(f) Passports, visas, reentry permits, and other documents required for entry under this Act may be considered as permits to enter for the purposes of this section.

CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN
SPOUSES AND SONS AND DAUGHTERS

SEC. 216. [8 U.S.C. 1186a] (a) IN GENERAL.—

(1) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of this Act, an alien spouse (as defined in subsection (g)(1)) and an alien son or daughter (as defined in subsection (g)(2)) shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence, to have obtained such status on a conditional basis subject to the provisions of this section.

(2) NOTICE OF REQUIREMENTS.—

(A) AT TIME OF OBTAINING PERMANENT RESIDENCE.—At the time an alien spouse or alien son or daughter obtains permanent resident status on a conditional basis under paragraph (1), the Attorney General shall provide for notice to such a spouse, son, or daughter respecting the provisions of this section and the requirements of subsection (c)(1) to have the conditional basis of such status removed.

(B) AT TIME OF REQUIRED PETITION.—In addition, the Attorney General shall attempt to provide notice to such a spouse, son, or daughter, at or about the beginning of the 90-day period described in subsection (d)(2)(A), of the requirements of subsections (c)(1).

(C) EFFECT OF FAILURE TO PROVIDE NOTICE.—The failure of the Attorney General to provide a notice under this paragraph shall not affect the enforcement of the provisions of this section with respect to such a spouse, son, or daughter.

(b) TERMINATION OF STATUS IF FINDING THAT QUALIFYING
MARRIAGE IMPROPER.—

(1) IN GENERAL.—In the case of an alien with permanent resident status on a conditional basis under subsection (a), if the Attorney General determines, before the second anniversary of the alien's obtaining the status of lawful admission for permanent residence, that—

(A) the qualifying marriage—

(i) was entered into for the purpose of procuring an alien's entry as an immigrant, or

(ii) has been judicially annulled or terminated, other than through the death of a spouse; or

(B) a fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) or 214(d) with respect to the alien;

the Attorney General shall so notify the parties involved and, subject to paragraph (2), shall terminate the permanent resident status of the alien (or aliens) involved as of the date of the determination.

(2) HEARING IN DEPORTATION PROCEEDING.—Any alien whose permanent resident status is terminated under paragraph (1) may request a review of such determination in a proceeding to deport the alien. In such proceeding, the burden of proof shall be on the Attorney General to establish, by a preponderance of the evidence, that a condition described in paragraph (1) is met.

(c) REQUIREMENTS OF TIMELY PETITION AND INTERVIEW FOR REMOVAL OF CONDITION.—

(1) IN GENERAL.—In order for the conditional basis established under subsection (a) for an alien spouse or an alien son or daughter to be removed—

(A) the alien spouse and the petitioning spouse (if not deceased) jointly must submit to the Attorney General, during the period described in subsection (d)(2), a petition which requests the removal of such conditional basis and which states, under penalty of perjury, the facts and information described in subsection (d)(1), and

(B) in accordance with subsection (d)(3), the alien spouse and the petitioning spouse (if not deceased) must appear for a personal interview before an officer or employee of the Service respecting the facts and information described in subsection (d)(1).

(2) TERMINATION OF PERMANENT RESIDENT STATUS FOR FAILURE TO FILE PETITION OR HAVE PERSONAL INTERVIEW.—

(A) IN GENERAL.—In the case of an alien with permanent resident status on a conditional basis under subsection (a), if—

(i) no petition is filed with respect to the alien in accordance with the provisions of paragraph (1)(A), or

(ii) unless there is good cause shown, the alien spouse and petitioning spouse fail to appear at the interview described in paragraph (1)(B),

the Attorney General shall terminate the permanent resident status of the alien as of the second anniversary of the alien's lawful admission for permanent residence.

(B) HEARING IN DEPORTATION PROCEEDING.—In any deportation proceeding with respect to an alien whose permanent resident status is terminated under subparagraph (A), the burden of proof shall be on the alien to establish compliance with the conditions of paragraphs (1)(A) and (1)(B).

(3) DETERMINATION AFTER PETITION AND INTERVIEW.—

(A) IN GENERAL.—If—

(i) a petition is filed in accordance with the provisions of paragraph (1)(A), and

(ii) the alien spouse and petitioning spouse appear at the interview described in paragraph (1)(B),

the Attorney General shall make a determination, within 90 days of the date of the interview, as to whether the facts and information described in subsection (d)(1) and alleged in the petition are true with respect to the qualifying marriage.

(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Attorney General determines that such facts and information are true, the Attorney General shall so notify the parties involved and shall remove the conditional basis of the parties effective as of the second anniversary of the alien's obtaining the status of lawful admission for permanent residence.

(C) TERMINATION IF ADVERSE DETERMINATION.—If the Attorney General determines that such facts and information are not true, the Attorney General shall so notify the parties involved and, subject to subparagraph (D), shall terminate the permanent resident status of an alien spouse or an alien son or daughter as of the date of the determination.

(D) HEARING IN DEPORTATION PROCEEDING.—Any alien whose permanent resident status is terminated under subparagraph (C) may request a review of such determination in a proceeding to deport the alien. In such proceeding, the burden of proof shall be on the Attorney General to establish, by a preponderance of the evidence, that the facts and information described in subsection (d)(1) and alleged in the petition are not true with respect to the qualifying marriage.

(4)¹²⁹ HARDSHIP WAIVER.—The Attorney General, in the Attorney General's discretion, may remove the conditional basis of the permanent resident status for an alien who fails to meet the requirements of paragraph (1) if the alien demonstrates that—

(A) extreme hardship would result if such alien is deported,

(B) the qualifying marriage was entered into in good faith by the alien spouse, but the qualifying marriage has been terminated (other than through the death of the spouse) and the alien was not at fault in failing to meet the requirements of paragraph (1), or

(C) the qualifying marriage was entered into in good faith by the alien spouse and during the marriage the alien spouse or child was battered by or was the subject of extreme cruelty perpetrated by his or her spouse or citizen or permanent resident parent and the alien was not at fault in failing to meet the requirements of paragraph (1).

In determining extreme hardship, the Attorney General shall consider circumstances occurring only during the period that the alien was admitted for permanent residence on a conditional basis. In^{129a} acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what

¹²⁹ Subsection (a) of § 701 of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5085) struck "by the alien spouse for good cause" in subparagraph (B) after "death of the spouse)", added subparagraph (C), and added the last sentence, effective, under subsection (b) of that section, with respect to marriages entered into at any time.

^{129a} This sentence and the succeeding sentence were added by § 40702(a) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 1955, Sept. 13, 1994), effective on September 13, 1994 and applicable to applications made before, on, or after, that date under § 40702(b) of that Act.

evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General. The Attorney General shall, by regulation, establish measures to protect the confidentiality of information concerning any abused alien spouse or child, including information regarding the whereabouts of such spouse or child.

(d) DETAILS OF PETITION AND INTERVIEW.—

(1) CONTENTS OF PETITION.—Each petition under subsection (c)(1)(A) shall contain the following facts and information:

(A) STATEMENT OF PROPER MARRIAGE AND PETITIONING PROCESS.—The facts are that—

(i) the qualifying marriage—

(I) was entered into in accordance with the laws of the place where the marriage took place,

(II) has not been judicially annulled or terminated, other than through the death of a spouse, and

(III) was not entered into for the purpose of procuring an alien's entry as an immigrant; and

(ii) no fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) or 214(d) with respect to the alien spouse or alien son or daughter.

(B) STATEMENT OF ADDITIONAL INFORMATION.—The information is a statement of—

(i) the actual residence of each party to the qualifying marriage since the date the alien spouse obtained permanent resident status on a conditional basis under subsection (a), and

(ii) the place of employment (if any) of each such party since such date, and the name of the employer of such party.

(2) PERIOD FOR FILING PETITION.—

(A) 90-DAY PERIOD BEFORE SECOND ANNIVERSARY.—Except as provided in subparagraph (B), the petition under subsection (c)(1)(A) must be filed during the 90-day period before the second anniversary of the alien's obtaining the status of lawful admission for permanent residence.

(B) DATE PETITIONS FOR GOOD CAUSE.—Such a petition may be considered if filed after such date, but only if the alien establishes to the satisfaction of the Attorney General good cause and extenuating circumstances for failure to file the petition during the period described in subparagraph (A).

(C) FILING OF PETITIONS DURING DEPORTATION.—In the case of an alien who is the subject of deportation hearings as a result of failure to file a petition on a timely basis in accordance with subparagraph (A), the Attorney General may stay such deportation proceedings against an alien pending the filing of the petition under subparagraph (B).

(3) PERSONAL INTERVIEW.—The interview under subsection (c)(1)(B) shall be conducted within 90 days after the date of

submitting a petition under subsection (c)(1)(A) and at a local office of the Service, designated by the Attorney General, which is convenient to the parties involved. The Attorney General, in the Attorney General's discretion, may waive the deadline for such an interview or the requirement for such an interview in such cases as may be appropriate.

(e) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION.—For purposes of title III, in the case of an alien who is in the United States as a lawful permanent resident on a conditional basis under this section, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be in the United States as an alien lawfully admitted to the United States for permanent residence.

(f) TREATMENT OF CERTAIN WAIVERS.—In the case of an alien who has permanent residence status on a conditional basis under this section, if, in order to obtain such status, the alien obtained a waiver under subsection (h) or (i) of section 212 of certain grounds of exclusion, such waiver terminates upon the termination of such permanent residence status under this section.

(g) DEFINITIONS.—In this section:

(1) The term “alien spouse” means an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise)—

(A) as an immediate relative (described in section 201(b)) as the spouse of a citizen of the United States,

(B) under section 214(d) as the fiancée or fiancé of a citizen of the United States, or

(C) under section 203(a)(2) as the spouse of an alien lawfully admitted for permanent residence, by virtue of a marriage which was entered into less than 24 months before the date the alien obtains such status by virtue of such marriage, but does not include such an alien who only obtains such status as a result of section 203(d).

(2) The term “alien son or daughter” means an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise) by virtue of being the son or daughter of an individual through a qualifying marriage.

(3) The term “qualifying marriage” means the marriage described to in paragraph (1).

(4) The term “petitioning spouse” means the spouse of a qualifying marriage, other than the alien.

CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, AND CHILDREN ¹³⁰

SEC. 216A. [8 U.S.C. 1186b] (a) IN GENERAL.—

(1) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of this Act, an alien entrepreneur (as defined in subsection (f)(1)), alien spouse, and alien child (as defined in

¹³⁰This section was inserted by § 121(b) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 4990), and was amended by § 302(b)(3) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1743).

subsection (f)(2)) shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence, to have obtained such status on a conditional basis subject to the provisions of this section.

(2) NOTICE OF REQUIREMENTS.—

(A) AT TIME OF OBTAINING PERMANENT RESIDENCE.—At the time an alien entrepreneur, alien spouse, or alien child obtains permanent resident status on a conditional basis under paragraph (1), the Attorney General shall provide for notice to such an entrepreneur, spouse, or child respecting the provisions of this section and the requirements of subsection (c)(1) to have the conditional basis of such status removed.

(B) AT TIME OF REQUIRED PETITION.—In addition, the Attorney General shall attempt to provide notice to such an entrepreneur, spouse, or child, at or about the beginning of the 90-day period described in subsection (d)(2)(A), of the requirements of subsection (c)(1).

(C) EFFECT OF FAILURE TO PROVIDE NOTICE.—The failure of the Attorney General to provide a notice under this paragraph shall not affect the enforcement of the provisions of this section with respect to such an entrepreneur, spouse, or child.

(b) TERMINATION OF STATUS IF FINDING THAT QUALIFYING ENTREPRENEURSHIP IMPROPER.—

(1) IN GENERAL.—In the case of an alien entrepreneur with permanent resident status on a conditional basis under subsection (a), if the Attorney General determines, before the second anniversary of the alien's obtaining the status of lawful admission for permanent residence, that—

(A) the establishment of the commercial enterprise was intended solely as a means of evading the immigration laws of the United States,

(B)(i) a commercial enterprise was not established by the alien,

(ii) the alien did not invest or was not actively in the process of investing the requisite capital; or

(iii) the alien was not sustaining the actions described in clause (i) or (ii) throughout the period of the alien's residence in the United States, or

(C) the alien was otherwise not conforming to the requirements of section 203(b)(5),

then the Attorney General shall so notify the alien involved and, subject to paragraph (2), shall terminate the permanent resident status of the alien (and the alien spouse and alien child) involved as of the date of the determination.

(2) HEARING IN DEPORTATION PROCEEDING.—Any alien whose permanent resident status is terminated under paragraph (1) may request a review of such determination in a proceeding to deport the alien. In such proceeding, the burden of proof shall be on the Attorney General to establish, by a preponderance of the evidence, that a condition described in paragraph (1) is met.

(c) REQUIREMENTS OF TIMELY PETITION AND INTERVIEW FOR REMOVAL OF CONDITION.—

(1) IN GENERAL.—In order for the conditional basis established under subsection (a) for an alien entrepreneur, alien spouse, or alien child to be removed—

(A) the alien entrepreneur must submit to the Attorney General, during the period described in subsection (d)(2), a petition which requests the removal of such conditional basis and which states, under penalty of perjury, the facts and information described in subsection (d)(1), and

(B) in accordance with subsection (d)(3), the alien entrepreneur must appear for a personal interview before an officer or employee of the Service respecting the facts and information described in subsection (d)(1).

(2) TERMINATION OF PERMANENT RESIDENT STATUS FOR FAILURE TO FILE PETITION OR HAVE PERSONAL INTERVIEW.—

(A) IN GENERAL.—In the case of an alien with permanent resident status on a conditional basis under subsection (a), if—

(i) no petition is filed with respect to the alien in accordance with the provisions of paragraph (1)(A), or

(ii) unless there is good cause shown, the alien entrepreneur fails to appear at the interview described in paragraph (1)(B) (if required under subsection (d)(3)),

the Attorney General shall terminate the permanent resident status of the alien (and the alien's spouse and children if it was obtained on a conditional basis under this section or section 216) as of the second anniversary of the alien's lawful admission for permanent residence.

(B) HEARING IN DEPORTATION PROCEEDING.—In any deportation proceeding with respect to an alien whose permanent resident status is terminated under subparagraph (A), the burden of proof shall be on the alien to establish compliance with the conditions of paragraphs (1)(A) and (1)(B).

(3) DETERMINATION AFTER PETITION AND INTERVIEW.—

(A) IN GENERAL.—If—

(i) a petition is filed in accordance with the provisions of paragraph (1)(A), and

(ii) the alien entrepreneur appears at any interview described in paragraph (1)(B),

the Attorney General shall make a determination, within 90 days of the date of the such filing or interview (whichever is later), as to whether the facts and information described in subsection (d)(1) and alleged in the petition are true with respect to the qualifying commercial enterprise.

(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Attorney General determines that such facts and information are true, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status effective as of the second anniversary of the alien's lawful admission for permanent residence.

(C) **TERMINATION IF ADVERSE DETERMINATION.**—If the Attorney General determines that such facts and information are not true, the Attorney General shall so notify the alien involved and, subject to subparagraph (D), shall terminate the permanent resident status of an alien entrepreneur, alien spouse, or alien child as of the date of the determination.

(D) **HEARING IN DEPORTATION PROCEEDING.**—Any alien whose permanent resident status is terminated under subparagraph (C) may request a review of such determination in a proceeding to deport the alien. In such proceeding, the burden of proof shall be on the Attorney General to establish, by a preponderance of the evidence, that the facts and information described in subsection (d)(1) and alleged in the petition are not true with respect to the qualifying commercial enterprise.

(d) **DETAILS OF PETITION AND INTERVIEW.**—

(1) **CONTENTS OF PETITION.**—Each petition under subsection (c)(1)(A) shall contain facts and information demonstrating that—

(A) a commercial enterprise was established by the alien;

(B) the alien invested or was actively in the process of investing the requisite capital; and

(C) the alien sustained the actions described in subparagraphs (A) and (B) throughout the period of the alien's residence in the United States.

(2) **PERIOD FOR FILING PETITION.**—

(A) **90-DAY PERIOD BEFORE SECOND ANNIVERSARY.**—Except as provided in subparagraph (B), the petition under subsection (c)(1)(A) must be filed during the 90-day period before the second anniversary of the alien's lawful admission for permanent residence.

(B) **DATE PETITIONS FOR GOOD CAUSE.**—Such a petition may be considered if filed after such date, but only if the alien establishes to the satisfaction of the Attorney General good cause and extenuating circumstances for failure to file the petition during the period described in subparagraph (A).

(C) **FILING OF PETITIONS DURING DEPORTATION.**—In the case of an alien who is the subject of deportation hearings as a result of failure to file a petition on a timely basis in accordance with subparagraph (A), the Attorney General may stay such deportation proceedings against an alien pending the filing of the petition under subparagraph (B).

(3) **PERSONAL INTERVIEW.**—The interview under subsection (c)(1)(B) shall be conducted within 90 days after the date of submitting a petition under subsection (c)(1)(A) and at a local office of the Service, designated by the Attorney General, which is convenient to the parties involved. The Attorney General, in the Attorney General's discretion, may waive the deadline for such an interview or the requirement for such an interview in such cases as may be appropriate.

(e) **TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION.**—For purposes of title III, in the case of an alien who is in the United States as a lawful permanent resident on a conditional basis under this section, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be in the United States as an alien lawfully admitted to the United States for permanent residence.

(f) **DEFINITIONS.**—In this section:

(1) The term “alien entrepreneur” means an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise) under section 203(b)(5).

(2) The term “alien spouse” and the term “alien child” mean an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise) by virtue of being the spouse or child, respectively, of an alien entrepreneur.

VISA WAIVER PILOT PROGRAM FOR CERTAIN VISITORS ¹³¹

SEC. 217. [8 U.S.C. 1187] (a) **ESTABLISHMENT OF PILOT PROGRAM.**—The Attorney General and the Secretary of State are authorized to establish a pilot program (hereinafter in this section referred to as the “pilot program”) under which the requirement of paragraph (7)(B)(i)(II) of section 212(a) may be waived by the Attorney General and the Secretary of State, acting jointly and in accordance with this section, in the case of an alien who meets the following requirements:

(1) **SEEKING ENTRY AS TOURIST FOR 90 DAYS OR LESS.**—The alien is applying for admission during the pilot program period (as defined in subsection (e)) as a nonimmigrant visitor (described in section 101(a)(15)(B)) for a period not exceeding 90 days.

(2) **NATIONAL OF PILOT PROGRAM COUNTRY.**—The alien is a national of, and presents a passport issued by, a country which—

(A) extends (or agrees to extend) reciprocal privileges to citizens and nationals of the United States, and

(B) is designated as a pilot program country under subsection (c) ^{131a} or is designated as a pilot program country with probationary status under subsection (g).

(3) **EXECUTES IMMIGRATION FORMS.**—The alien before the time of such admission completes such immigration form as the Attorney General shall establish.

(4) **ENTRY INTO THE UNITED STATES.**—If arriving by sea or air, the alien arrives at the port of entry into the United States on a carrier which has entered into an agreement with the

¹³¹ This section was amended by § 201(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5012), effective November 29, 1990, and was further amended by § 303(a) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1746). For monitoring and reports on this section, see § 405 of IRCA (100 Stat. 3442), shown in Appendix II.B.1. and § 201(c) of the Immigration Act of 1990 (104 Stat. 5014), shown in Appendix II.A.1.

^{131a} The matter in subparagraph (B) following “subsection (c)” was inserted by § 211(1) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4313, Oct. 25, 1994).

Service to guarantee transport of the alien out of the United States if the alien is found inadmissible or deportable by an immigration officer.

(5) NOT A SAFETY THREAT.—The alien has been determined not to represent a threat to the welfare, health, safety, or security of the United States.

(6) NO PREVIOUS VIOLATION.—If the alien previously was admitted without a visa under this section, the alien must not have failed to comply with the conditions of any previous admission as such a nonimmigrant.

(7) ROUND-TRIP TICKET.—The alien is in possession of a round-trip transportation ticket (unless this requirement is waived by the Attorney General under regulations).

(b) WAIVER OF RIGHTS.—An alien may not be provided a waiver under the pilot program unless the alien has waived any right—

(1) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States, or

(2) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

(c) DESIGNATION OF PILOT PROGRAM COUNTRIES.—

(1) IN GENERAL.—The Attorney General and the Secretary of State acting jointly may designate any country as a pilot program country if it meets the requirements of paragraph (2).

(2) QUALIFICATIONS.—Except as provided in subsection (g)(4), a country may not be designated as a pilot program country unless the following requirements are met:

(A) LOW NONIMMIGRANT VISA REFUSAL RATE FOR PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

(B) LOW NONIMMIGRANT VISA REFUSAL RATE FOR EACH OF 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

(C) MACHINE READABLE PASSPORT PROGRAM.—The government of the country certifies that it has or is in the process of developing a program to issue machine-readable passports to its citizens.

(D) LAW ENFORCEMENT INTERESTS.—The Attorney General determines that the United States law enforcement interests would not be compromised by the designation of the country.

(3) CONTINUING AND SUBSEQUENT QUALIFICATIONS.—For each fiscal year (within the pilot program period) after the initial period—

(A) CONTINUING QUALIFICATION.—In the case of a country which was a pilot program country in the previous

fiscal year, a country may not be designated as a pilot program country unless the sum of—

(i) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

(ii) the total number of nationals of that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

was less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year.

(B) NEW COUNTRIES.—In the case of another country, the country may not be designated as a pilot program country unless the following requirements are met:

(i) LOW NONIMMIGRANT VISA REFUSAL RATE IN PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

(ii) LOW NONIMMIGRANT VISA REFUSAL RATE IN EACH OF THE 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

(4) INITIAL PERIOD.—For purposes of paragraphs (2) and (3), the term “initial period” means the period beginning at the end of the 30-day period described in subsection (b)(1) and ending on the last day of the first fiscal year which begins after such 30-day period.

(d) AUTHORITY.—Notwithstanding any other provision of this section, the Attorney General and the Secretary of State, acting jointly, may for any reason (including national security) refrain from waiving the visa requirement in respect to nationals of any country which may otherwise qualify for designation or may, at any time, rescind any waiver or designation previously granted under this section.

(e) CARRIER AGREEMENTS.—

(1) IN GENERAL.—The agreement referred to in subsection (a)(4) is an agreement between a carrier and the Attorney General under which the carrier agrees, in consideration of the waiver of the visa requirement with respect to a nonimmigrant visitor under the pilot program—

(A) to indemnify the United States against any costs for the transportation of the alien from the United States if the visitor is refused admission to the United States or remains in the United States unlawfully after the 90-day period described in subsection (a)(1)(A),

(B) to submit daily to immigration officers any immigration forms received with respect to nonimmigrant visitors provided a waiver under the pilot program, and

(C) to be subject to the imposition of fines resulting from the transporting into the United States of a national of a designated country without a passport pursuant to regulations promulgated by the Attorney General.

(2) TERMINATION OF AGREEMENTS.—The Attorney General may terminate an agreement under paragraph (1) with five days' notice to the carrier for the carrier's failure to meet the terms of such agreement.

(f) DEFINITION OF PILOT PROGRAM PERIOD.—For purposes of this section, the term "pilot program period" means the period beginning on October 1, 1988, and ending on September 30, 1996 ^{131b}

(g) ^{131c} PILOT PROGRAM COUNTRY WITH PROBATIONARY STATUS.—

(1) IN GENERAL.—The Attorney General and the Secretary of State acting jointly may designate any country as a pilot program country with probationary status if it meets the requirements of paragraph (2).

(2) QUALIFICATIONS.—A country may not be designated as a pilot program country with probationary status unless the following requirements are met:

(A) NONIMMIGRANT VISA REFUSAL RATE FOR PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of the country during the two previous full fiscal years was less than 3.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

(B) NONIMMIGRANT VISA REFUSAL RATE FOR PREVIOUS YEAR.—The number of refusals of nonimmigrant visitor visas for nationals of the country during the previous full fiscal year was less than 3 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

(C) LOW EXCLUSIONS AND VIOLATIONS RATE FOR PREVIOUS YEAR.—The sum of—

(i) the total number of nationals of that country who were excluded from admission or withdrew their application for admission during the preceding fiscal year as a nonimmigrant visitor, and

(ii) the total number of nationals of that country who were admitted as nonimmigrant visitors during the preceding fiscal year and who violated the terms of such admission,

^{131b} § 1(m) of P.L. 103-415 struck "1994" and inserted "1995" and § 210 of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4312, Oct. 25, 1994) struck "ending" through the period and inserted "ending on September 30, 1996"; the period was inadvertently omitted.

^{131c} Subsection (g) was added § 211(2) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4313, Oct. 25, 1994).

was less than 1.5 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during the preceding fiscal year.

(D) MACHINE READABLE PASSPORT PROGRAM.—The government of the country certifies that it has or is in the process of developing a program to issue machine-readable passports to its citizens.

(3) CONTINUING AND SUBSEQUENT QUALIFICATIONS FOR PILOT PROGRAM COUNTRIES WITH PROBATIONARY STATUS.—The designation of a country as a pilot program country with probationary status shall terminate if either of the following occurs:

(A) The sum of—

(i) the total number of nationals of that country who were excluded from admission or withdrew their application for admission during the preceding fiscal year as a nonimmigrant visitor, and

(ii) the total number of nationals of that country who were admitted as visitors during the preceding fiscal year and who violated the terms of such admission,

is more than 2.0 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during the preceding fiscal year.

(B) The country is not designated as a pilot program country under subsection (c) within 3 fiscal years of its designation as a pilot program country with probationary status under this subsection.”.

(4) DESIGNATION OF PILOT PROGRAM COUNTRIES WITH PROBATIONARY STATUS AS PILOT PROGRAM COUNTRIES.—In the case of a country which was a pilot program country with probationary status in the preceding fiscal year, a country may be designated by the Attorney General and the Secretary of State, acting jointly, as a pilot program country under subsection (c) if—

(A) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during the preceding fiscal year as a nonimmigrant visitor, and

(B) the total number of nationals of that country who were admitted as nonimmigrant visitors during the preceding fiscal year and who violated the terms of such admission,

was less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such preceding fiscal year.

ADMISSION OF TEMPORARY H-2A WORKERS

SEC. 218. [8 U.S.C. 1188] (a) CONDITIONS FOR APPROVAL OF H-2A PETITIONS.—(1) A petition to import an alien as an H-2A worker (as defined in subsection (i)(2)) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

(A) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition, and

(B) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

(2) The Secretary of Labor may require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.

(b) **CONDITIONS FOR DENIAL OF LABOR CERTIFICATION.**—The Secretary of Labor may not issue a certification under subsection (a) with respect to an employer if the conditions described in that subsection are not met or if any of the following conditions are met:

(1) There is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification.

(2)(A) The employer during the previous two-year period employed H-2A workers and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer at any time during that period substantially violated a material term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers.

(B) No employer may be denied certification under subparagraph (A) for more than three years for any violation described in such subparagraph.

(3) The employer has not provided the Secretary with satisfactory assurances that if the employment for which the certification is sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

(4) The Secretary determines that the employer has not made positive recruitment efforts within a multi-state region of traditional or expected labor supply where the Secretary finds that there are a significant number of qualified United States workers who, if recruited, would be willing to make themselves available for work at the time and place needed. Positive recruitment under this paragraph is in addition to, and shall be conducted within the same time period as, the circulation through the interstate employment service system of the employer's job offer. The obligation to engage in positive recruitment under this paragraph shall terminate on the date the H-2A workers depart for the employer's place of employment.

(c) **SPECIAL RULES FOR CONSIDERATION OF APPLICATIONS.**—The following rules shall apply in the case of the filing and consideration of an application for a labor certification under this section:

(1) **DEADLINE FOR FILING APPLICATIONS.**—The Secretary of Labor may not require that the application be filed more than 60 days before the first date the employer requires the labor or services of the H-2A worker.

(2) NOTICE WITHIN SEVEN DAYS OF DEFICIENCIES.—(A) The employer shall be notified in writing within seven days of the date of filing if the application does not meet the standards (other than that described in subsection (a)(1)(A)) for approval.

(B) If the application does not meet such standards, the notice shall include the reasons therefor and the Secretary shall provide an opportunity for the prompt resubmission of a modified application.

(3) ISSUANCE OF CERTIFICATION.—(A) The Secretary of Labor shall make, not later than 20 days before the date such labor or services are first required to be performed, the certification described in subsection (a)(1) if—

(i) the employer has complied with the criteria for certification (including criteria for the recruitment of eligible individuals as prescribed by the Secretary), and

(ii) the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have indicated their availability to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary.

In considering the question of whether a specific qualification is appropriate in a job offer, the Secretary shall apply the normal and accepted qualifications required by non-H-2A-employers in the same or comparable occupations and crops.

(B)(i) For a period of 3 years subsequent to the effective date of this section, labor certifications shall remain effective only if, from the time the foreign worker departs for the employer's place of employment, the employer will provide employment to any qualified United States worker who applies to the employer until 50 percent of the period of the work contract, under which the foreign worker who is in the job was hired, has elapsed. In addition, the employer will offer to provide benefits, wages and working conditions required pursuant to this section and regulations.

(ii) The requirement of clause (i) shall not apply to any employer who—

(I) did not, during any calendar quarter during the preceding calendar year, use more than 500 man-days of agricultural labor, as defined in section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(u)),¹³²

(II) is not a member of an association which has petitioned for certification under this section for its members, and

(III) has not otherwise associated with other employers who are petitioning for temporary foreign workers under this section.

(iii) Six months before the end of the 3-year period described in clause (i), the Secretary of Labor shall consider the findings of the report mandated by section 403(a)(4)(D) of the Immigration Reform and Control Act of 1986¹³³ as well as

¹³² The definition in that section reads as follows: "‘man-day’ means any day during which an employee performs any agricultural labor for not less than one hour."

¹³³ See Appendix II.B.1. for provision.

other relevant materials, including evidence of benefits to United States workers and costs to employers, addressing the advisability of continuing a policy which requires an employer, as a condition for certification under this section, to continue to accept qualified, eligible United States workers for employment after the date the H-2A workers depart for work with the employer. The Secretary's review of such findings and materials shall lead to the issuance of findings in furtherance of the Congressional policy that aliens not be admitted under this section unless there are not sufficient workers in the United States who are able, willing, and qualified to perform the labor or service needed and that the employment of the aliens in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. In the absence of the enactment of Federal legislation prior to three months before the end of the 3-year period described in clause (i) which addresses the subject matter of this subparagraph, the Secretary shall immediately publish the findings required by this clause, and shall promulgate, on an interim or final basis, regulations based on his findings which shall be effective no later than three years from the effective date of this section.

(iv) In complying with clause (i) of this subparagraph, an association shall be allowed to refer or transfer workers among its members: *Provided*, That for purposes of this section an association acting as an agent for its members shall not be considered a joint employer merely because of such referral or transfer.

(v) United States workers referred or transferred pursuant to clause (iv) of this subparagraph shall not be treated disparately.

(vi) An employer shall not be liable for payments under section 655.202(b)(6) of title 20, Code of Federal Regulations (or any successor regulation) with respect to an H-2A worker who is displaced due to compliance with the requirement of this subparagraph, if the Secretary of Labor certifies that the H-2A worker was displaced because of the employer's compliance with clause (i) of this subparagraph.

(vii)(I) No person or entity shall willfully and knowingly withhold domestic workers prior to the arrival of H-2A workers in order to force the hiring of domestic workers under clause (i).

(II) Upon the receipt of a complaint by an employer that a violation of subclause (I) has occurred the Secretary shall immediately investigate. He shall within 36 hours of the receipt of the complaint issue findings concerning the alleged violation. Where the Secretary finds that a violation has occurred, he shall immediately suspend the application of clause (i) of this subparagraph with respect to that certification for that date of need.

(4) HOUSING.—Employers shall furnish housing in accordance with regulations. The employer shall be permitted at the employer's option to provide housing meeting applicable Federal standards for temporary labor camps or to secure housing

which meets the local standards for rental and/or public accommodations or other substantially similar class of habitation: *Provided*, That in the absence of applicable local standards, State standards for rental and/or public accommodations or other substantially similar class of habitation shall be met: *Provided further*, That in the absence of applicable local or State standards, Federal temporary labor camp standards shall apply: *Provided further*, That the Secretary of Labor shall issue regulations which address the specific requirements of housing for employees principally engaged in the range production of livestock: *Provided further*, That when it is the prevailing practice in the area and occupation of intended employment to provide family housing, family housing shall be provided to workers with families who request it: *And provided further*, That nothing in this paragraph shall require an employer to provide or secure housing for workers who are not entitled to it under the temporary labor certification regulations in effect on June 1, 1986.

(d) ROLES OF AGRICULTURAL ASSOCIATIONS.—

(1) PERMITTING FILING BY AGRICULTURAL ASSOCIATIONS.—A petition to import an alien as a temporary agricultural worker, and an application for a labor certification with respect to such a worker, may be filed by an association of agricultural producers which use agricultural services.

(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association is a joint or sole employer of temporary agricultural workers, the certifications granted under this section to the association may be used for the certified job opportunities of any of its producer members and such workers may be transferred among its producer members to perform agricultural services of a temporary or seasonal nature for which the certifications were granted.

(3) TREATMENT OF VIOLATIONS.—

(A) MEMBER'S VIOLATION DOES NOT NECESSARILY DISQUALIFY ASSOCIATION OR OTHER MEMBERS.—If an individual producer member of a joint employer association is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the member, the denial shall apply only to that member of the association unless the Secretary determines that the association or other member participated in, had knowledge of, or reason to know of, the violation.

(B) ASSOCIATION'S VIOLATION DOES NOT NECESSARILY DISQUALIFY MEMBERS.—(i) If an association representing agricultural producers as a joint employer is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the association, the denial shall apply only to the association and does not apply to any individual producer member of the association unless the Secretary determines that the member participated in, had knowledge of, or reason to know of, the violation.

(ii) If an association of agricultural producers certified as a sole employer is determined to have committed an act

that under subsection (b)(2) results in the denial of certification with respect to the association, no individual producer member of such association may be the beneficiary of the services of temporary alien agricultural workers admitted under this section in the commodity and occupation in which such aliens were employed by the association which was denied certification during the period such denial is in force, unless such producer member employs such aliens in the commodity and occupation in question directly or through an association which is a joint employer of such workers with the producer member.

(e) **EXPEDITED ADMINISTRATIVE APPEALS OF CERTAIN DETERMINATIONS.**—(1) Regulations shall provide for an expedited procedure for the review of a denial of certification under subsection (a)(1) or a revocation of such a certification or, at the applicant's request, for a de novo administrative hearing respecting the denial or revocation.

(2) The Secretary of Labor shall expeditiously, but in no case later than 72 hours after the time a new determination is requested, make a new determination on the request for certification in the case of an H-2A worker if able, willing, and qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified workers. If the employer asserts that any eligible individual who has been referred is not able, willing, or qualified, the burden of proof is on the employer to establish that the individual referred is not able, willing, or qualified because of employment-related reasons.

(f) **VIOLATORS DISQUALIFIED FOR 5 YEARS.**—An alien may not be admitted to the United States as a temporary agricultural worker if the alien was admitted to the United States as such a worker within the previous five-year period and the alien during that period violated a term or condition of such previous admission.

(g) **AUTHORIZATIONS OF APPROPRIATIONS.**—(1) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, \$10,000,000 for the purposes—

(A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii)(a), and

(B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States.

(2) The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this section.

(3) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, such sums as may be necessary for the purpose of enabling the Secretary of Labor to make determinations and certifications under this section and under section 212(a)(5)(A)(i).

(4) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, such sums as may be necessary for

the purposes of enabling the Secretary of Agriculture to carry out the Secretary's duties and responsibilities under this section.

(h) MISCELLANEOUS PROVISIONS.—(1) The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

(2) The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.

(i) DEFINITIONS.—For purposes of this section:

(1) The term “eligible individual” means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(h)(3) with respect to that employment.

(2) The term “H-2A worker” means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

CHAPTER 3—ISSUANCE OF ENTRY DOCUMENTS

ISSUANCE OF VISAS

SEC. 221. [8 U.S.C. 1201] (a) Under the conditions hereinafter prescribed and subject to the limitations prescribed in this Act or regulations issued thereunder, a consular officer may issue (1) to an immigrant who has made proper application therefor, an immigrant visa which shall consist of the application provided for in section 222, visaed by such consular officer, and shall specify the foreign state, if any, to which the immigrant is charged, the immigrant's particular status under such foreign state, the preference, immediate relative, or special immigrant classification to which the alien is charged, the date on which the validity of the visa shall expire, and such additional information as may be required; and (2) to a nonimmigrant who has made proper application therefor, a nonimmigrant visa, which shall specify the classification under section 101(a)(15) of the nonimmigrant, the period during which the nonimmigrant visa shall be valid, and such additional information as may be required.

(b) Each alien who applies for a visa shall be registered in connection with his application, and shall furnish copies of his photograph signed by him for such use as may be by regulations required. The requirements of this subsection may be waived in the discretion of the Secretary of State in the case of any alien who is within that class of nonimmigrants enumerated in sections 101(a)(15)(A), and 101(a)(15)(G), or in the case of any alien who is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof.

(c) ¹³⁴ An immigrant visa shall be valid for such period, not exceeding four months, as shall be by regulations prescribed, except that any visa issued to a child lawfully adopted by a United States citizen and spouse while such citizen is serving abroad in the Unit-

¹³⁴ The limitation on the period of validity of an immigrant visa under this subsection is waived for certain residents of Hong Kong under § 154 of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5006), shown in Appendix II.A.1.

ed States Armed Forces, or is employed abroad by the United States Government, or is temporarily abroad on business, shall be valid until such time, for a period not to exceed three years, as the adoptive citizen parent returns to the United States in due course of his service, employment, or business. A nonimmigrant visa shall be valid for such periods as shall be by regulations prescribed. In prescribing the period of validity of a nonimmigrant visa in the case of nationals of any foreign country who are eligible for such visas, the Secretary of State shall, insofar as practicable, accord to such nationals the same treatment upon a reciprocal basis as such foreign country accords to nationals of the United States who are within a similar class. An immigrant visa may be replaced under the original number during the fiscal year in which the original visa was issued for an immigrant who establishes to the satisfaction of the consular officer that he was unable to use the original immigrant visa during the period of its validity because of reasons beyond his control and for which he was not responsible: *Provided*, That the immigrant is found by the consular officer to be eligible for an immigrant visa and the immigrant pays again the statutory fees for an application and an immigrant visa.

(d) Prior to the issuance of an immigrant visa to any alien, the consular officer shall require such alien to submit to a physical and mental examination in accordance with such regulations as may be prescribed. Prior to the issuance of a nonimmigrant visa to any alien, the consular officer may require such alien to submit to a physical or mental examination, or both, if in his opinion such examination is necessary to ascertain whether such alien is eligible to receive a visa.

(e) Each immigrant shall surrender his immigrant visa to the immigration officer at the port of entry, who shall endorse on the visa the date and the port of arrival, the identity of the vessel or other means of transportation by which the immigrant arrived, and such other endorsements as may be by regulations required.

(f) Each nonimmigrant shall present or surrender to the immigration officer at the port of entry such documents as may be by regulation required. In the case of an alien crewman not in possession of any individual documents other than a passport and until such time as it becomes practicable to issue individual documents, such alien crewman may be admitted, subject to the provisions of this title, if his name appears in the crew list of the vessel or aircraft on which he arrives and the crew list is visaed by a consular officer, but the consular officer shall have the right to exclude any alien crewman from the crew list visa.

(g) No visa or other documentation shall be issued to an alien if (1) it appears to the consular officer, from statements in the application, or in the papers submitted therewith, that such alien is ineligible to receive a visa or such other documentation under section 212, or any other provision of law, (2) the application fails to comply with the provisions of this Act, or the regulations issued thereunder, or (3) the consular officer knows or has reason to believe that such alien is ineligible to receive a visa or such other documentation under section 212, or any other provision of law: *Provided*, That a visa or other documentation may be issued to an

alien who is within the purview of section 212(a)(4),¹³⁵ if such alien is otherwise entitled to receive a visa or other documentation, upon receipt of notice by the consular officer from the Attorney General of the giving of a bond or undertaking providing indemnity as in the case of aliens admitted under section 213: *Provided further*, That a visa may be issued to an alien defined in section 101(a)(15) (B) or (F), if such alien is otherwise entitled to receive a visa, upon receipt of a notice by the consular officer from the Attorney General of the giving of a bond with sufficient surety in such sum and containing such conditions as the consular officer shall prescribe, to insure that at the expiration of the time for which such alien has been admitted by the Attorney General, as provided in section 214(a), or upon failure to maintain the status under which he was admitted, or to maintain any status subsequently acquired under section 248 of the Act, such alien will depart from the United States.

(h) Nothing in this Act shall be construed to entitle any alien, to whom a visa or other documentation has been issued, to enter the United States, if, upon arrival at a port of entry in the United States, he is found to be inadmissible under this Act, or any other provision of law. The substance of this subsection shall appear upon every visa application.

(i) After the issuance of a visa or other documentation to any alien, the consular officer or the Secretary of State may at any time, in his discretion, revoke such visa or other documentation. Notice of such revocation shall be communicated to the Attorney General, and such revocation shall invalidate the visa or other documentation from the date of issuance: *Provided*, That carriers or transportation companies, and masters, commanding officers, agents, owners, charterers, or consignees, shall not be penalized under section 273(b) for action taken in reliance on such visas or other documentation, unless they received due notice of such revocation prior to the alien's embarkation.

APPLICATIONS FOR VISAS

SEC. 222. [8 U.S.C. 1202] (a) Every alien applying for an immigrant visa and for alien registration shall make application therefor in such form and manner and at such place as shall be by regulations prescribed.¹³⁶ In the application the alien shall state his full and true name, and any other name which he has used or by which he has been known; age and sex; the date and place of his birth;^{136a} and such additional information necessary to the identification of the applicant and the enforcement of the immigration and nationality laws as may be by regulations prescribed.

¹³⁵ § 603(a)(9) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5083) substituted a reference to section 212(a)(4) for a reference to sections 212(a)(7) and 212(a)(15).

¹³⁶ Note that § 6039E(a)(2) of the Internal Revenue Code of 1986 requires the application to include the taxpayer identification number (if any) of the applicant and certain other information, effective for applications submitted after Dec. 31, 1987 (or, if earlier, the effective date of initial regulations to carry out that section).

^{136a} § 205(a) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4311, Oct. 25, 1994) struck detailed requirements relating to information on visa applications, applicable to applications made on or after October 25, 1994, under § 205(b) of that Act.

(b) Every alien applying for an immigrant visa shall present a valid unexpired passport or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Secretary of State. The immigrant shall furnish to the consular officer with his application a copy of a certification by the appropriate police authorities stating what their records show concerning the immigrant; a certified copy of any existing prison record, military record, and record of his birth; and a certified copy of all other records or documents concerning him or his case which may be required by the consular officer. The copy of each document so furnished shall be permanently attached to the application and become a part thereof. In the event that the immigrant establishes to the satisfaction of the consular officer that any document or record required by this subsection is unobtainable, the consular officer may permit the immigrant to submit in lieu of such document or record other satisfactory evidence of the fact to which such document or record would, if obtainable, pertain.

(c) Every alien applying for a nonimmigrant visa and for alien registration shall make application therefor in such form and manner as shall be by regulations prescribed. In the application the alien shall state his full and true name, the date and place of birth, his nationality, the purpose and length of his intended stay in the United States; personal description (including height, complexion, color of hair and eyes, and marks of identification); his marital status; and such additional information necessary to the identification of the applicant and the enforcement of the immigration and nationality laws as may be by regulations prescribed.

(d) Every alien applying for a nonimmigrant visa and alien registration shall furnish to the consular officer, with his application, a certified copy of such documents pertaining to him as may be by regulations required.

(e) Except as may be otherwise prescribed by regulations, each application required by this section shall be signed by the applicant in the presence of the consular officer, and verified by the oath of the applicant administered by the consular officer. The application for an immigrant visa, when visaed by the consular officer, shall become the immigrant visa. The application for a nonimmigrant visa or other documentation as a nonimmigrant shall be disposed of as may be by regulations prescribed. The issuance of a nonimmigrant visa shall, except as may be otherwise by regulations prescribed, be evidenced by a stamp placed by the consular officer in the alien's passport.

(f) ¹³⁷ The records of the Department of State and of diplomatic and consular offices of the United States pertaining to the issuance or refusal of visas or permits to enter the United States shall be considered confidential and shall be used only for the formulation,

¹³⁷ The Department of State has cited this provision as the basis for the exemption of visa records from disclosure under section 552(b)(3) of title 5, United States Code (commonly known as the Freedom of Information Act). Section 405(b)(2) of the State Department Basic Authorities Act of 1956 (as added by § 198(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Pub.L. 102-138, Oct. 28, 1991)) provides as follows:

(2) Records described in section 222(f) of the Immigration and Nationality Act (relating to visa records) shall be excluded from publication in the FRUS series under section 403 and, to the extent applicable, exempted from the declassification requirement of section 404.

amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States, except that in the discretion of the Secretary of State certified copies of such records may be made available to a court which certifies that the information contained in such records is needed by the court in the interest of the ends of justice in a case pending before the court.

REENTRY PERMITS

SEC. 223. [8 U.S.C. 1203] (a)(1) Any alien lawfully admitted for permanent residence, or (2) any alien lawfully admitted to the United States pursuant to clause 6 of section 3 of the Immigration Act of 1924, between July 1, 1924, and July 5, 1932, both dates inclusive, who intends to depart temporarily from the United States may make application to the Attorney General for a permit to reenter the United States, stating the length of his intended absence or absences, and the reasons therefor. Such application shall be made under oath, and shall be in such form, contain such information, and be accompanied by such photographs of the applicant as may be by regulations prescribed.

(b) If the Attorney General finds (1) that the applicant under subsection (a)(1) has been lawfully admitted to the United States for permanent residence, or that the applicant under subsection (a)(2) has since admission maintained the status required of him at the time of his admission and such applicant desires to visit abroad and to return to the United States to resume the status existing at the time of his departure for such visit, (2) that the application is made in good faith, and (3) that the alien's proposed departure from the United States would not be contrary to the interests of the United States, the Attorney General may, in his discretion, issue the permit, which shall be valid for not more than two years from the date of issuance and shall not be renewable. The permit shall be in such form as shall be by regulations prescribed for the complete identification of the alien.

(c) During the period of validity, such permit may be used by the alien in making one or more applications for reentry into the United States.

(d) Upon the return of the alien to the United States the permit shall be presented to the immigration officer at the port of entry, and upon the expiration of its validity, the permit shall be surrendered to the Service.

(e) A permit issued under this section in the possession of the person to whom issued, shall be accepted in lieu of any visa which otherwise would be required from such person under this Act. Otherwise a permit issued under this section shall have no effect under the immigration laws except to show that the alien to whom it was issued is returning from a temporary visit abroad; but nothing in this section shall be construed as making such permit the exclusive means of establishing that the alien is so returning.

IMMEDIATE RELATIVE AND SPECIAL IMMIGRANT VISAS

SEC. 224. [8 U.S.C. 1204] A consular officer may, subject to the limitations provided in section 221, issue an immigrant visa to a special immigrant or immediate relative as such upon satisfac-

tory proof, under regulations prescribed under this Act, that the applicant is entitled to special immigrant or immediate relative status.

CHAPTER 4—PROVISIONS RELATING TO ENTRY AND EXCLUSION

LISTS OF ALIEN AND CITIZEN PASSENGERS ARRIVING OR DEPARTING; RECORD OF RESIDENT ALIENS AND CITIZENS LEAVING PERMANENTLY FOR FOREIGN COUNTRY

SEC. 231. [8 U.S.C. 1221] (a) Upon the arrival of any person by water or by air at any port within the United States from any place outside the United States,¹³⁸ it shall be the duty of the master or commanding officer, or authorized agent, owner, or consignee of the vessel or aircraft, having any such person on board to deliver to the immigration officers at the port of arrival typewritten or printed lists or manifests of the persons on board such vessel or aircraft. Such lists or manifests shall be prepared at such time, be in such form and shall contain such information as the Attorney General shall prescribe by regulation as being necessary for the identification of the persons transported and for the enforcement of the immigration laws. This subsection shall not require the master or commanding officer, or authorized agent, owner, or consignee of a vessel or aircraft to furnish a list or manifest relating (1) to an alien crewman or (2) to any other person arriving by air on a trip originating in foreign contiguous territory, except (with respect to such arrivals by air) as may be required by regulations issued pursuant to section 239.

(b) It shall be the duty of the master or commanding officer or authorized agent of every vessel or aircraft taking passengers on board at any port of the United States, who are destined to any place outside the United States, to file with the immigration officers before departure from such port a list of all such persons taken on board. Such list shall be in such form, contain such information, and be accompanied by such documents, as the Attorney General shall prescribe by regulation as necessary for the identification of the persons so transported and for the enforcement of the immigration laws. No master or commanding officer of any such vessel or aircraft shall be granted clearance papers for his vessel or aircraft until he or the authorized agent has deposited such list or lists and accompanying documents with the immigration officer at such port and made oath that they are full and complete as to the information required to be contained therein, except that in the case of vessels or aircraft which the Attorney General determines are making regular trips to ports of the United States, the Attorney General may, when expedient, arrange for the delivery of lists of outgoing persons at a later date. This subsection shall not require the master or commanding officer, or authorized agent, owner, or consignee of a vessel or aircraft to furnish a list or manifest relating (1) to an alien crewman or (2) to any other person departing by air on a trip originating in the United States who is des-

¹³⁸ Section 305(i) of the Rail Passenger Service Act (45 U.S.C. 545(i)) requires the Attorney General to cooperate with Amtrak in providing en route immigration procedures aboard trains operated in international intercity rail passenger service in a manner convenient to passengers and resulting in the most rapid possible transit of such service.

tinued to foreign contiguous territory, except (with respect to such departure by air) as may be required by regulations issued pursuant to section 239.

(c) The Attorney General may authorize immigration officers to record the following information regarding every resident person leaving the United States by way of the Canadian or Mexican borders for permanent residence in a foreign country: Names, age, and sex; whether married or single; calling or occupation; whether able to read or write; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States; intended future permanent residence; and time and port of last arrival in the United States; and if a United States citizen or national, the facts on which claim to that status is based.

(d) If it shall appear to the satisfaction of the Attorney General that the master or commanding officer, owner, or consignee of any vessel or aircraft, or the agent of any transportation line, as the case may be, has refused or failed to deliver any list or manifest required by subsection (a) or (b), or that the list or manifest delivered is not accurate and full, such master or commanding officer, owner, or consignee, or agent, as the case may be, shall pay to the Commissioner the sum of \$300¹³⁹ for each person concerning whom such accurate and full list or manifest is not furnished, or concerning whom the manifest or list is not prepared and sworn to as prescribed by this section or by regulations issued pursuant thereto. No vessel or aircraft shall be granted clearance pending determination of the question of the liability to the payment of such penalty, or while it remains unpaid, and no such penalty shall be remitted or refunded, except that clearance may be granted prior to the determination of such question upon the deposit with the Commissioner of a bond or undertaking approved by the Attorney General or a sum sufficient to cover such penalty.

(e) The Attorney General is authorized to prescribe the circumstances and conditions under which the list or manifest requirements of subsections (a) and (b) may be waived.

DETENTION OF ALIENS FOR OBSERVATION AND EXAMINATION

SEC. 232. [8 U.S.C. 1222] For the purpose of determining whether aliens (including alien crewmen) arriving at ports of the United States belong to any of the classes excluded by this Act, by reason of being afflicted with any of the diseases or mental or physical defects or disabilities set forth in section 212(a), or whenever the Attorney General has received information showing that any aliens are coming from a country or have embarked at a place where any of such diseases are prevalent or epidemic, such aliens shall be detained by the Attorney General for a sufficient time to enable the immigration officers and medical officers to subject such aliens to observation and an examination sufficient to determine whether or not they belong to the excluded classes.

[Section 233 (relating to temporary removal for examination upon arrival) was repealed by § 206 of the Department of Justice

¹³⁹ § 543(a)(1) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5057) substituted payment of \$300 to the Commissioner for payment of \$10 to the collector of customs, effective for actions taken after November 29, 1990.

Appropriation Act, 1987 (as contained in section 101(b) of Pub. L. 99-500, Oct. 18, 1986, 100 Stat. 1783-56).]

PHYSICAL AND MENTAL EXAMINATION

SEC. 234. [8 U.S.C. 1224] The physical and mental examination of arriving aliens (including alien crewmen) shall be made by medical officers of the United States Public Health Service, who shall conduct all medical examinations and shall certify, for the information of the immigration officers and the special inquiry officers, any physical and mental defect or disease observed by such medical officers in any such alien. If medical officers of the United States Public Health Service are not available, civil surgeons^{139a} of not less than four years' professional experience may be employed for such service upon such terms as may be prescribed by the Attorney General. Aliens (including alien crewmen) arriving at ports of the United States shall be examined by at least one such medical officer or civil surgeon under such administrative regulations as the Attorney General may prescribe, and under medical regulations prepared by the Secretary of Health and Human Services. Medical officers of the United States Public Health Service who have had special training in the diagnosis of insanity and mental defects shall be detailed for duty or employed at such ports of entry as the Attorney General may designate, and such medical officers shall be provided with suitable facilities for the detention and examination of all arriving aliens who it is suspected may be excludable under paragraph (1)¹⁴⁰ of section 212(a), and the services of interpreters shall be provided for such examination. Any alien certified under paragraph (1)¹⁴⁰ of section 212(a) may appeal to a board of medical officers of the United States Public Health Service, which shall be convened by the Secretary of Health and Human Services, and any such alien may introduce before such board one expert medical witness at his own cost and expense.

INSPECTION BY IMMIGRATION OFFICERS

SEC. 235. [8 U.S.C. 1225] (a) The inspection, other than the physical and mental examination, of aliens (including alien crewmen) seeking admission or readmission to, or the privilege of passing through the United States shall be conducted by immigration officers, except as otherwise provided in regard to special inquiry officers. All aliens arriving at ports of the United States shall be examined by one or more immigration officers at the discretion of the Attorney General and under such regulations as he may pre-

^{139a} Section 1079 of the National Defense Authorization Act for Fiscal Year 1993 (Pub. L. 102-484, 106 Stat. 2514, Oct. 23, 1992) provides as follows:

SEC. 1079. DESIGNATION OF UNITED STATES MILITARY PHYSICIANS AS CIVIL SURGEONS UNDER THE IMMIGRATION AND NATIONALITY ACT IN CONNECTION WITH THE ARMED FORCES IMMIGRATION ADJUSTMENT ACT OF 1991.

Notwithstanding any other provision of law, United States military physicians with not less than four years professional experience shall be considered to be civil surgeons for the purpose of the performance of physical examinations required under section 234 of the Immigration and Nationality Act (8 U.S.C. 1224) of special immigrants described in section 101(a)(27)(K) of such Act (8 U.S.C. 1101(a)(27)(K)).

¹⁴⁰ § 603(a)(10) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5083) substituted a reference to paragraph (1) for a reference to paragraphs (1) through (5).

scribe.¹⁴¹ Immigration officers are hereby authorized and empowered to board and search any vessel, aircraft, railway car, or other conveyance, or vehicle in which they believe aliens are being brought into the United States. The Attorney General and any immigration officer, including special inquiry officers, shall have power to administer oaths and to take and consider evidence of or from any person touching the privilege of any alien or person he believes or suspects to be an alien to enter, reenter, pass through, or reside in the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service, and, where such action may be necessary, to make a written record of such evidence. Any person coming into the United States may be required to state under oath the purpose or purposes for which he comes, the length of time he intends to remain in the United States, whether or not he intends to remain in the United States permanently and, if an alien, whether he intends to become a citizen thereof, and such other items of information as will aid the immigration officer in determining whether he is a national of the United States or an alien and, if the latter, whether he belongs to any of the excluded classes enumerated in section 212. The Attorney General and any immigration officer, including special inquiry officers, shall have power to require by subpoena the attendance and testimony of witnesses before immigration officers and special inquiry officers and the production of books, papers, and documents relating to the privilege of any person to enter, reenter, reside in, or pass through the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service, and to that end may invoke the aid of any court of the United States. Any United States district court within the jurisdiction of which investigations or inquiries are being conducted by an immigration officer or special inquiry officer may, in the event of neglect or refusal to respond to a subpoena issued under this subsection or refusal to testify before an immigration officer or special inquiry officer, issue an order requiring such persons to appear before an immigration officer or special inquiry officer, produce books, papers, and documents if demanded, and testify, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(b) Every alien (other than an alien crewman), and except as otherwise provided in subsection (c) of this section and in section 273(d), who may not appear to the examining immigration officer at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for further inquiry to be conducted by a special inquiry officer. The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien, whose privilege to land is so challenged, before a special inquiry officer for further inquiry.

(c) Any alien (including an alien crewman) who may appear to the examining immigration officer or to the special inquiry officer

¹⁴¹ Under regulations, 8 C.F.R. §235.5, the Attorney General has provided for preinspection and preclearance of travelers from Guam, Puerto Rico, the Virgin Islands, Canada, Mexico, and other countries.

during the examination before either of such officers to be excludable under subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3)¹⁴² shall be temporarily excluded, and no further inquiry by a special inquiry officer shall be conducted until after the case is reported to the Attorney General together with any such written statement and accompanying information, if any, as the alien or his representative may desire to submit in connection therewith and such an inquiry or further inquiry is directed by the Attorney General. If the Attorney General is satisfied that the alien is excludable under any of such paragraphs on the basis of information of a confidential nature, the disclosure of which the Attorney General, in the exercise of his discretion, and after consultation with the appropriate security agencies of the Government, concludes would be prejudicial to the public interest, safety, or security, he may in his discretion order such alien to be excluded and deported without any inquiry or further inquiry by a special inquiry officer. Nothing in this subsection shall be regarded as requiring an inquiry before a special inquiry officer in the case of an alien crewman.

EXCLUSIONS OF ALIENS

SEC. 236. [8 U.S.C. 1226] (a) A special inquiry officer shall conduct proceedings under this section, administer oaths, present and receive evidence, and interrogate, examine, and cross-examine the alien or witnesses. He shall have authority in any case to determine whether an arriving alien who has been detained for further inquiry under section 235 shall be allowed to enter or shall be excluded and deported. The determination of such special inquiry officer shall be based only on the evidence produced at the inquiry. No special inquiry officer shall conduct a proceeding in any case under this section in which he shall have participated in investigative functions or in which he shall have participated (except as provided in this subsection) in prosecuting functions. Proceedings before a special inquiry officer under this section shall be conducted in accordance with this section, the applicable provisions of sections 235 and 287(b), and such regulations as the Attorney General shall prescribe, and shall be the sole and exclusive procedure for determining admissibility of a person to the United States under the provisions of this section. At such inquiry, which shall be kept separate and apart from the public, the alien may have one friend or relative present, under such conditions as may be prescribed by the Attorney General. A complete record of the proceedings and of all testimony and evidence produced at such inquiry, shall be kept.

(b) From a decision of a special inquiry officer excluding an alien, such alien may take a timely appeal to the Attorney General, and any such alien shall be advised of his right to take such appeal. No appeal may be taken from a temporary exclusion under section 235(c). From a decision of the special inquiry officer to admit an alien, the immigration officer in charge at the port where the inquiry is held may take a timely appeal to the Attorney Gen-

¹⁴² § 603(a)(11) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5083) substituted a reference to subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3) for a reference to paragraphs (27), (28), or (29) of section 212(a).

eral. An appeal by the alien, or such officer in charge, shall operate to stay any final action with respect to any alien whose case is so appealed until the final decision of the Attorney General is made. Except as provided in section 235(c) such decision shall be rendered solely upon the evidence adduced before the special inquiry officer.

(c) Except as provided in subsections (b) or (d), in every case where an alien is excluded from admission into the United States, under this Act or any other law or treaty now existing or hereafter made, the decision of a special inquiry officer shall be final unless reversed on appeal to the Attorney General.

(d) If a medical officer or civil surgeon or board of medical officers has certified under section 234 that an alien has a disease, illness, or addiction which would make the alien excludable under paragraph (1) of section 212(a),¹⁴³ the decision of the special inquiry officer shall be based solely upon such certification. No alien shall have a right to appeal from such an excluding decision of a special inquiry officer.¹⁴³

(e)(1)¹⁴⁴ Pending a determination of excludability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense).

(2) Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody unless the Attorney General determines that the alien may not be deported because the condition described in section 243(g) exists.

(3) If the determination described in paragraph (2) has been made, the Attorney General may release such alien only after—

(A) a procedure for review of each request for relief under this subsection has been established,

(B) such procedure includes consideration of the severity of the felony committed by the alien, and

(C) the review concludes that the alien will not pose a danger to the safety of other persons or to property.

IMMEDIATE DEPORTATION OF ALIENS EXCLUDED FROM ADMISSION OR ENTERING IN VIOLATION OF LAW

SEC. 237. [8 U.S.C. 1227] (a)(1) Any alien (other than an alien crewman) arriving in the United States who is excluded under this Act, shall be immediately deported, in accommodations of the same class in which he arrived, unless the Attorney General, in an indi-

¹⁴³ § 603(a)(12) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5083) substituted "has a disease, illness, or addiction which would make the alien excludable under paragraph (1) of section 212(a)" for "is afflicted with a disease specified in section 212(a)(6), or with any mental disease, defect, or disability which would bring such alien within any of the classes excluded from admission to the United States under paragraphs (1), (2), (3), (4), or (5) of section 212(a)" and struck the last sentence, which previously read as follows: "If an alien is excluded by a special inquiry officer because of the existence of a physical disease, defect, or disability, other than one specified in section 212(a)(6), the alien may appeal from the excluding decision in accordance with subsection (b) of this section, and the provisions of section 213 may be invoked."

¹⁴⁴ Subsection (e) was added by § 504(b) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5050), effective on November 29, 1990, and was amended by § 306(a)(5) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1751).

vidual case, in his discretion, concludes that immediate deportation is not practicable or proper. Deportation shall be to the country in which the alien boarded the vessel or aircraft on which he arrived in the United States, unless the alien boarded such vessel or aircraft in foreign territory contiguous to the United States or in any island adjacent thereto or adjacent to the United States and the alien is not a native, citizen, subject, or national of, or does not have a residence in, such foreign contiguous territory or adjacent island, in which case the deportation shall instead be to the country in which is located the port at which the alien embarked for such foreign contiguous territory or adjacent island. The cost of the maintenance including detention expenses and expenses incident to detention of any such alien while he is being detained, shall be borne by the owner or owners of the vessel or aircraft on which he arrived, except that the cost of maintenance (including detention expenses and expenses incident to detention while the alien is being detained prior to the time he is offered for deportation to the transportation line which brought him to the United States) shall not be assessed against the owner or owners of such vessel or aircraft if (A) the alien was in possession of a valid, unexpired immigrant visa, or (B) the alien (other than an alien crewman) was in possession of a valid, unexpired nonimmigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired reentry permit issued to him, and (i) such application was made within one hundred and twenty days of the date of issuance of the visa or other document, or in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (ii) in the event the application was made later than one hundred and twenty days of the date of issuance of the visa or other document or such examination and admission, if the owner or owners of such vessel or aircraft established to the satisfaction of the Attorney General that the ground of exclusion could not have been ascertained by the exercise of due diligence prior to the alien's embarkation, or (C) the person claimed United States nationality or citizenship and was in possession of an unexpired United States passport issued to him by competent authority.

(2) If the government of the country designated in paragraph (1) will not accept the alien into its territory, the alien's deportation shall be directed by the Attorney General, in his discretion and without necessarily giving any priority or preference because of their order as herein set forth, either to—

(A) the country of which the alien is a subject, citizen, or national;

(B) the country in which he was born;

(C) the country in which he has a residence; or

(D) any country which is willing to accept the alien into its territory, if deportation to any of the foregoing countries is impracticable, inadvisable, or impossible.

(b) It shall be unlawful for any master, commanding officer, purser, person in charge, agent, owner, or consignee of any vessel or aircraft (1) to refuse to receive any alien (other than an alien crewman), ordered deported under this section back on board such

vessel or aircraft or another vessel or aircraft owned or operated by the same interests; (2) to fail to detain any alien (other than an alien crewman) on board any such vessel or at the airport of arrival of the aircraft when required by this Act or if so ordered by an immigration officer, or to fail or refuse to deliver him for medical or other inspection, or for further medical or other inspection, as and when so ordered by such officer; (3) to refuse or fail to remove him from the United States to the country to which his deportation has been directed; (4) to fail to pay the cost of his maintenance while being detained as required by this section; (5) to take any fee, deposit, or consideration on a contingent basis to be kept or returned in case the alien is landed or excluded; or (6) knowingly to bring to the United States any alien (other than an alien crewman) excluded or arrested and deported under any provision of law until such alien may be lawfully entitled to reapply for admission to the United States. If it shall appear to the satisfaction of the Attorney General that any such master, commanding officer, purser, person in charge, agent, owner, or consignee of any vessel or aircraft has violated any of the provisions of this section, such master, commanding officer, purser, person in charge, agent, owner, or consignee shall pay to the Commissioner the sum of \$2,000¹⁴⁵ for each violation. No such vessel or aircraft shall have clearance from any port of the United States while any such fine is unpaid or while the question of liability to pay any such fine is being determined, nor shall any such fine be remitted or refunded, except that clearance may be granted prior to the determination of such question upon the deposit with the Commissioner of a bond or undertaking approved by the Attorney General or a sum sufficient to cover such fine.

(c) An alien shall be deported on a vessel or aircraft owned by the same person who owns the vessel or aircraft on which the alien arrived in the United States, unless it is impracticable to so deport the alien within a reasonable time. The transportation expense of the alien's deportation shall be borne by the owner or owners of the vessel or aircraft on which the alien arrived. If the deportation is effected on a vessel or aircraft not owned by such owner or owners, the transportation expense of the alien's deportation may be paid from the appropriation for the enforcement of this Act and recovered by civil suit from any owner, agent, or consignee of the vessel or aircraft on which the alien arrived.

(d) The Attorney General, under such conditions as are by regulations prescribed, may stay the deportation of any alien deportable under this section, if in his judgment the testimony of such alien is necessary on behalf of the United States in the prosecution of offenders against any provision of this Act or other laws of the United States. The cost of maintenance of any person so detained resulting from a stay of deportation under this subsection and a witness fee in the sum of \$1 per day for each day such person is so detained may be paid from the appropriation for the enforcement of this title. Such alien may be released under bond in the penalty of not less than \$500 with security approved by the Attor-

¹⁴⁵ § 543(a)(2) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5057) substituted payment of \$2,000 to the Commissioner for payment of \$300 to the district director of customs, effective for actions taken after November 29, 1990.

ney General on condition that such alien shall be produced when required as a witness and for deportation, and on such other conditions as the Attorney General may prescribe.

(e) Upon the certificate of an examining medical officer to the effect that an alien ordered to be excluded and deported under this section is helpless from sickness or mental and physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by the alien ordered excluded and deported, such accompanying alien may also be excluded and deported, and the master, commanding officer, agent, owner, or consignee of the vessel or aircraft in which such alien and accompanying alien arrived in the United States shall be required to return the accompanying alien in the same manner as other aliens denied admission and ordered deported under this section.

ENTRY THROUGH OR FROM FOREIGN CONTIGUOUS TERRITORY AND
ADJACENT ISLANDS; LANDING STATIONS

SEC. 238. [8 U.S.C. 1228] (a) The Attorney General shall have power to enter into contracts with transportation lines for the entry and inspection of aliens coming to the United States from foreign contiguous territory or from adjacent islands. No such transportation line shall be allowed to land any such alien in the United States until and unless it has entered into any such contracts which may be required by the Attorney General.

(b) Every transportation line engaged in carrying alien passengers for hire to the United States from foreign contiguous territory or from adjacent islands shall provide and maintain at its expense suitable landing stations, approved by the Attorney General, conveniently located at the point or points of entry. No such transportation line shall be allowed to land any alien passengers in the United States until such landing stations are provided, and unless such stations are thereafter maintained to the satisfaction of the Attorney General.

(c) The Attorney General shall have power to enter into contracts including bonding agreements with transportation lines to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. Notwithstanding any other provision of this Act, such aliens may not have their classification changed under section 248.

(d) As used in this section the terms "transportation line" and "transportation company" include, but are not limited to, the owner, charterer, consignee, or authorized agent operating any vessel or aircraft bringing aliens to the United States, to foreign contiguous territory, or to adjacent islands.

DESIGNATION OF PORTS OF ENTRY FOR ALIENS ARRIVING BY CIVIL
AIRCRAFT

SEC. 239. [8 U.S.C. 1229] The Attorney General is authorized (1) by regulation to designate as ports of entry for aliens arriving by aircraft any of the ports of entry for civil aircraft designated as such in accordance with law; (2) by regulation to provide such reasonable requirements for aircraft in civil air navigation with respect to giving notice of intention to land in advance of landing, or

notice of landing, as shall be deemed necessary for purposes of administration and enforcement of this Act; and (3) by regulation to provide for the application to civil air navigation of the provisions of this Act where not expressly so provided in this Act to such extent and upon such conditions as he deems necessary. Any person who violates any regulation made under this section shall be subject to a civil penalty of \$2,000¹⁴⁶ which may be remitted or mitigated by the Attorney General in accordance with such proceedings as the Attorney General shall by regulation prescribe.¹⁴⁷ In case the violation is by the owner or person in command of the aircraft, the penalty shall be a lien upon the aircraft, and such aircraft may be libeled therefor in the appropriate United States court. The determination by the Attorney General and remission or mitigation of the civil penalty shall be final. In case the violation is by the owner or person in command of the aircraft, the penalty shall be a lien upon the aircraft and may be collected by proceedings in rem which shall conform as nearly as may be to civil suits in admiralty. The Supreme Court of the United States, and under its direction other courts of the United States, are authorized to prescribe rules regulating such proceedings against aircraft in any particular not otherwise provided by law. Any aircraft made subject to a lien by this section may be summarily seized by, and placed in the custody of such persons as the Attorney General may by regulation prescribe. The aircraft may be released from such custody upon deposit of such amount not exceeding \$2,000¹⁴⁶ as the Attorney General may prescribe, or of a bond in such sum and with such sureties as the Attorney General may prescribe, conditioned upon the payment of the penalty which may be finally determined by the Attorney General.

RECORDS OF ADMISSION

SEC. 240. [8 U.S.C. 1230] (a) The Attorney General shall cause to be filed, as a record of admission of each immigrant, the immigrant visa required by section 221(e) to be surrendered at the port of entry by the arriving alien to an immigration officer.

(b) The Attorney General shall cause to be filed such record of the entry into the United States of each immigrant admitted under section 211(b) and of each nonimmigrant as the Attorney General deems necessary for the enforcement of the immigration laws.

CHAPTER 5—DEPORTATION; ADJUSTMENT OF STATUS

GENERAL CLASSES OF DEPORTABLE ALIENS

SEC. 241. [8 U.S.C. 1251] (a)¹⁴⁸ CLASSES OF DEPORTABLE ALIENS.—Any alien (including an alien crewman) in the United

¹⁴⁶ § 543(a)(3) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5058) substituted \$2,000 for \$500, effective for actions taken after November 29, 1990.

¹⁴⁷ See also 49 U.S.C. App. 1471(a)(2), relating to compromise of overlapping civil penalties by Secretary of Transportation.

¹⁴⁸ Subsection (a) was amended in its entirety by § 602(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5077), effective March 1, 1991, under § 602(d) of that Act. For savings provision, see § 602(c) of that Act. For subsection (a) as in effect before that date, see Appendix II.A.2. See Appendix VII.B.1. for disqualification of certain deported aliens from certain benefits under title II of the Social Security Act. Also, § 301 of the Immigration Act of

States shall, upon the order of the Attorney General, be deported if the alien is within one or more of the following classes of deportable aliens:

(1) EXCLUDABLE AT TIME OF ENTRY OR OF ADJUSTMENT OF STATUS OR VIOLATES STATUS.—

(A) EXCLUDABLE ALIENS.—Any alien who at the time of entry or adjustment of status was within one or more of the classes of aliens excludable by the law existing at such time is deportable.

(B) ENTERED WITHOUT INSPECTION.—Any alien who entered the United States without inspection or at any time or place other than as designated by the Attorney General or is in the United States in violation of this Act or any other law of the United States is deportable.

(C) VIOLATED NONIMMIGRANT STATUS OR CONDITION OF ENTRY.—

(i) NONIMMIGRANT STATUS VIOLATORS.—Any alien who was admitted as a nonimmigrant and who has failed to maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 248, or to comply with the conditions of any such status, is deportable.

(ii) VIOLATORS OF CONDITIONS OF ENTRY.—Any alien whom the Secretary of Health and Human Services certifies has failed to comply with terms, conditions, and controls that were imposed under section 212(g) is deportable.

(D) TERMINATION OF CONDITIONAL PERMANENT RESIDENCE.—

(i) IN GENERAL.—Any alien with permanent resident status on a conditional basis under section 216 (relating to conditional permanent resident status for certain alien spouses and sons and daughters) or under section 216A (relating to conditional permanent resident status for certain alien entrepreneurs, spouses, and children) who has had such status terminated under such respective section is deportable.

(ii) EXCEPTION.—Clause (i) shall not apply in the cases described in section 216(c)(4) (relating to certain hardship waivers).

(E) SMUGGLING.—

(i) IN GENERAL.—Any alien who (prior to the date of entry, at the time of any entry, or within 5 years of the date of any entry) knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law is deportable.

(ii)¹⁴⁹ SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of

1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5029), shown in Appendix II.A.1., exempts from deportation on certain grounds certain spouses and unmarried children of legalized aliens.

¹⁴⁹ Clause (ii) was redesignated, and a new clause (ii) inserted, by § 307(h)(4) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1755), effective as if included in the Immigration Act of 1990.

alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

(iii) **WAIVER AUTHORIZED.**—The Attorney General may, in his discretion for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive application of clause (i) in the case of any alien lawfully admitted for permanent residence if the alien has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

(F) **FAILURE TO MAINTAIN EMPLOYMENT.**—Any alien who obtains the status of an alien lawfully admitted for temporary residence under section 210A who fails to meet the requirement of section 210A(d)(5)(A) by the end of the applicable period is deportable.

(G) **MARRIAGE FRAUD.**—An alien shall be considered to be deportable as having procured a visa or other documentation by fraud (within the meaning of section 212(a)(6)(C)(i)) and to be in the United States in violation of this Act (within the meaning of subparagraph (B)) if—

(i) the alien obtains any entry into the United States with an immigrant visa or other documentation procured on the basis of a marriage entered into less than 2 years prior to such entry of the alien and which, within 2 years subsequent to any entry of the alien in the United States, shall be judicially annulled or terminated, unless the alien establishes to the satisfaction of the Attorney General that such marriage was not contracted for the purpose of evading any provisions of the immigration laws, or

(ii) it appears to the satisfaction of the Attorney General that the alien has failed or refused to fulfill the alien's marital agreement which in the opinion of the Attorney General was made for the purpose of procuring the alien's entry as an immigrant.

(H) **WAIVER AUTHORIZED FOR CERTAIN MISREPRESENTATIONS.**—The provisions of this paragraph relating to the deportation of aliens within the United States on the ground that they were excludable at the time of entry as aliens described in section 212(a)(6)(C)(i), whether willful or innocent, may, in the discretion of the Attorney General, be waived for any alien (other than an alien described in paragraph (4)(D)) who—

(i) is the spouse, parent, son, or daughter of a citizen of the United States or of an alien lawfully admitted to the United States for permanent residence; and

(ii) was in possession of an immigrant visa or equivalent document and was otherwise admissible to the United States at the time of such entry except for those grounds of inadmissibility specified under paragraphs (5)(A) and (7)(A) of section 212(a) which were a direct result of that fraud or misrepresentation.

A waiver of deportation for fraud or misrepresentation granted under this subparagraph shall also operate to waive deportation based on the grounds of inadmissibility at entry directly resulting from such fraud or misrepresentation.

(2) CRIMINAL OFFENSES.—

(A) GENERAL CRIMES.—

(i) CRIMES OF MORAL TURPITUDE.—Any alien who—

(I) is convicted of a crime involving moral turpitude committed within five years^{149a} (or 10 years in the case of an alien provided lawful permanent resident status under section 245(i)) after the date of entry, and

(II) either is sentenced to confinement or is confined therefor in a prison or correctional institution for one year or longer, is deportable.

(ii) MULTIPLE CRIMINAL CONVICTIONS.—Any alien who at any time after entry is convicted of two or more crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct, regardless of whether confined therefor and regardless of whether the convictions were in a single trial, is deportable.

(iii) AGGRAVATED FELONY.—Any alien who is convicted of an aggravated felony at any time after entry is deportable.

(iv) WAIVER AUTHORIZED.—Clauses (i), (ii), and (iii) shall not apply in the case of an alien with respect to a criminal conviction if the alien subsequent to the criminal conviction has been granted a full and unconditional pardon by the President of the United States or by the Governor of any of the several States.

(B) CONTROLLED SUBSTANCES.—

(i) CONVICTION.—Any alien who at any time after entry has been convicted of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), other

^{149a} Parenthetical phrase after “five years” was inserted by § 130003(d) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 2026, Sept. 13, 1994), effective with respect to aliens against whom deportation proceedings are initiated after September 13, 1994, under § 130004(d) of that Act; reference is to section 245(i) as added by § 130003(c)(1) of that Act.

than a single offense involving possession for one's own use of 30 grams or less of marijuana, is deportable.

(ii) **DRUG ABUSERS AND ADDICTS.**—Any alien who is, or at any time after entry has been, a drug abuser or addict is deportable.

(C) **CERTAIN FIREARM OFFENSES.**—Any alien who at any time after entry is convicted under any law of purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying,^{149b} or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any weapon, part, or accessory which is a firearm or destructive device (as defined in section 921(a) of title 18, United States Code) in violation of any law is deportable.

(D) **MISCELLANEOUS CRIMES.**—Any alien who at any time has been convicted (the judgment on such conviction becoming final) of, or has been so convicted of a conspiracy or attempt to violate—

(i) any offense under chapter 37 (relating to espionage), chapter 105 (relating to sabotage), or chapter 115 (relating to treason and sedition) of title 18, United States Code, for which a term of imprisonment of five or more years may be imposed;

(ii) any offense under section 871 or 960 of title 18, United States Code;

(iii) a violation of any provision of the Military Selective Service Act (50 U.S.C. App. 451 et seq.) or the Trading With the Enemy Act (50 U.S.C. App. 1 et seq.); or

(iv) a violation of section 215 or 278 of this Act, is deportable.

(3) **FAILURE TO REGISTER AND FALSIFICATION OF DOCUMENTS.**—

(A) **CHANGE OF ADDRESS.**—An alien who has failed to comply with the provisions of section 265 is deportable, unless the alien establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful.

(B) **FAILURE TO REGISTER OR FALSIFICATION OF DOCUMENTS.**—Any alien who at any time has been convicted—

(i) under section 266(c) of this Act or under section 36(c) of the Alien Registration Act, 1940,

(ii) of a violation of, or an attempt or^{149c} a conspiracy to violate, any provision of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.), or

(iii) of a violation of, or an attempt or^{149c} a conspiracy to violate, section 1546 of title 18, United

^{149b} The phrase "or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry," was inserted by § 203(b) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4311, Oct. 25, 1994), applicable to convictions occurring before, on, or after October 25, 1994, under § 203(c) of that Act.

^{149c} The phrase "an attempt or" was inserted by § 203(b) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4311, Oct. 25, 1994), applicable to convictions occurring before, on, or after October 25, 1994, under § 203(c) of that Act.

States Code (relating to fraud and misuse of visas, permits, and other entry documents),
is deportable.

(C) DOCUMENT FRAUD.—Any alien who is the subject of a final order for violation of section 274C is deportable.
(4) SECURITY AND RELATED GROUNDS.—

(A) IN GENERAL.—Any alien who has engaged, is engaged, or at any time after entry engages in—

(i) any activity to violate any law of the United States relating to espionage or sabotage or to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information,

(ii) any other criminal activity which endangers public safety or national security, or

(iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means,
is deportable.

(B) TERRORIST ACTIVITIES.—Any alien who has engaged, is engaged, or at any time after entry engages in any terrorist activity (as defined in section 212(a)(3)(B)(iii)) is deportable.

(C) FOREIGN POLICY.—

(i) IN GENERAL.—An alien whose presence or activities in the United States the Secretary of State has reasonable ground to believe would have potentially serious adverse foreign policy consequences for the United States is deportable.

(ii) EXCEPTIONS.—The exceptions described in clauses (ii) and (iii) of section 212(a)(3)(C) shall apply to deportability under clause (i) in the same manner as they apply to excludability under section 212(a)(3)(C)(i).

(D) ASSISTED IN NAZI PERSECUTION OR ENGAGED IN GENOCIDE.—Any alien described in clause (i) or (ii) of section 212(a)(3)(E) is deportable.

(5) PUBLIC CHARGE.—Any alien who, within five years after the date of entry, has become a public charge from causes not affirmatively shown to have arisen since entry is deportable.¹⁵⁰

(b)¹⁵¹ An alien, admitted as a nonimmigrant under the provisions of either section 101(a)(15)(A)(i) or 101(a)(15)(G)(i), and who fails to maintain a status under either of those provisions, shall not

¹⁵⁰ See Appendix VII.B.5, relating to attribution to an alien of a sponsor's income and resources for purposes of determining eligibility for and amount of benefits of the alien under the Supplemental Security Income program.

¹⁵¹ Former subsections (b), (c), (f), and (g) were repealed by § 602(b)(1) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5081), and former subsection (e) was redesignated as subsection (b) by § 602(b)(2)(B) of that Act and amended by substituting the reference to paragraph (4) of subsection (a) for the former reference to subsection (a)(6) or (7). For text of former subsections, see Appendix II.A.2. Former subsection (d) was repealed by § 307(k) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1756), effective March 1, 1991, namely, as if included in section 602(b) of the Immigration Act of 1990.

be required to depart from the United States without the approval of the Secretary of State, unless such alien is subject to deportation under paragraph (4) of subsection (a).

(c)¹⁵² Paragraphs (1)(A), (1)(B), (1)(C), (1)(D), and (3)(A) of subsection (a) (other than so much of paragraph (1) as relates to a ground of exclusion described in paragraph (2) or (3) of section 212(a)) shall not apply to a special immigrant described in section 101(a)(27)(J) based upon circumstances that existed before the date the alien was provided such special immigrant status.

APPREHENSION AND DEPORTATION OF ALIENS

SEC. 242. [8 U.S.C. 1252] (a)(1) Pending a determination of deportability in the case of any alien as provided in subsection (b) of this section, such alien may, upon warrant of the Attorney General, be arrested and taken into custody. Except as provided in paragraph (2), any such alien taken into custody may, in the discretion of the Attorney General and pending such final determination of deportability, (A) be continued in custody; or (B) be released under bond in the amount of not less than \$500 with security approved by the Attorney General, containing such conditions as the Attorney General may prescribe; or (C) be released on conditional parole. But such bond or parole, whether heretofore or hereafter authorized, may be revoked at any time by the Attorney General, in his discretion, and the alien may be returned to custody under the warrant which initiated the proceedings against him and detained until final determination of his deportability. Any court of competent jurisdiction shall have authority to review or revise any determination of the Attorney General concerning detention, release on bond, or parole pending final decision of deportability upon a conclusive showing in habeas corpus proceedings that the Attorney General is not proceeding with such reasonable dispatch as may be warranted by the particular facts and circumstances in the case of any alien to determine deportability.

(2)(A)¹⁵³ The Attorney General shall take into custody any alien convicted of an aggravated felony upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense). Notwithstanding paragraph (1) or subsections (c) and (d) but subject to subparagraph (B), the Attorney General shall not release such felon from custody.

¹⁵² Subsection (c) was added as subsection (h) by § 153(b) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5006), effective March 1, 1991, and redesignated by § 307(k)(1) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1756), and was amended by § 219(g) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4317, Oct. 25, 1994). From November 29, 1990, to March 1, 1991, the subsection read as follows:

(h) Paragraphs (1), (2), (5), (9), or (12) of subsection 241(a) (other than so much of paragraph (1) as relates to a ground of exclusion described in paragraph (9), (10), (23), (27), (29), or (33) of section 212(a)) shall not apply to a special immigrant described in section 101(a)(27)(J) based upon circumstances that exist before the date the alien was provided such special immigrant status.

¹⁵³ § 504(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5049) amended paragraph (2) by striking "upon completion of the alien's sentence for such conviction" and inserting "upon release...same offense", and by adding subparagraph (B).

(B)¹⁵⁴ The Attorney General may not release from custody any lawfully admitted alien who has been convicted of an aggravated felony, either before or after a determination of deportability, unless the alien demonstrates to the satisfaction of the Attorney General that such alien is not a threat to the community and that the alien is likely to appear before any scheduled hearings.

(3)(A) The Attorney General shall devise and implement a system—

(i) to make available, daily (on a 24-hour basis), to Federal, State, and local authorities the investigative resources of the Service to determine whether individuals arrested by such authorities for aggravated felonies are aliens;

(ii) to designate and train officers and employees of the Service within each district to serve as a liaison to Federal, State, and local law enforcement and correctional agencies and courts with respect to the arrest, conviction, and release of any alien charged with an aggravated felony; and

(iii) which uses computer resources to maintain a current record of aliens who have been convicted of an aggravated felony and who have been deported; such record shall be made available to inspectors at ports of entry and to border patrol agents at sector headquarters for purposes of immediate identification of any such previously deported alien seeking to reenter the United States.

(B) The Attorney General shall submit reports to the Committees on the Judiciary of the House of Representatives and of the Senate at the end of the 6-month period and at the end of the 18-month period beginning on the effective date of this paragraph which describe in detail specific efforts made by the Attorney General to implement this paragraph.

(b) A special inquiry officer shall conduct proceedings under this section to determine the deportability of any alien, and shall administer oaths, present and receive evidence, interrogate, examine, and cross-examine the alien or witnesses, and as authorized by the Attorney General, shall make determinations, including orders of deportation. Determination of deportability in any case shall be made only upon a record made in a proceeding before a special inquiry officer, at which the alien shall have reasonable opportunity to be present, unless by reason of the alien's mental incompetency it is impracticable for him to be present, in which case the Attorney General shall prescribe necessary and proper safeguards for the rights and privileges of such alien. If any alien has been given a reasonable opportunity to be present at a proceeding under this section, and without reasonable cause fails or refuses to attend or remain in attendance at such proceeding, the special inquiry officer may proceed to a determination in like manner as if the alien were present. In any case or class of cases in which the Attorney General believes that such procedure would be of aid in making a determination, he may require specifically or by regulation that an additional immigration officer shall be assigned to present the evidence on behalf of the United States and in such case such addi-

¹⁵⁴ Subparagraph (B) was amended to read as shown by § 306(a)(4) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1751).

tional immigration officer shall have authority to present evidence, and to interrogate, examine and cross-examine the alien or other witnesses in the proceedings. Nothing in the preceding sentence shall be construed to diminish the authority conferred upon the special inquiry officer conducting such proceedings. No special inquiry officer shall conduct a proceeding in any case under this section in which he shall have participated in investigative functions or in which he shall have participated (except as provided in this subsection) in prosecuting functions. Proceedings before a special inquiry officer acting under the provisions of this section shall be in accordance with such regulations, not inconsistent with this Act, as the Attorney General shall prescribe. Such regulations shall include requirements that are consistent with section 242B and that provide that—

(1) the alien shall be given notice, reasonable under all the circumstances, of the nature of the charges against him and of the time and place at which the proceedings will be held,

(2) the alien shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose,

(3) the alien shall have a reasonable opportunity to examine the evidence against him, to present evidence on his own behalf, and to cross-examine witnesses presented by the Government, and

(4) no decision of deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.

Except as provided in section 242A(d),^{154a} the procedure so prescribed shall be the sole and exclusive procedure for determining the deportability of an alien under this section. In any case in which an alien is ordered deported from the United States under the provisions of this Act, or of any other law or treaty, the decision of the Attorney General shall be final. In the discretion of the Attorney General, and under such regulations as he may prescribe, deportation proceedings, including issuance of a warrant of arrest, and a finding of deportability under this section need not be required in the case of any alien who admits to belonging to a class of aliens who are deportable under section 241 if such alien voluntarily departs from the United States at his own expense, or is removed at Government expense as hereinafter authorized, unless the Attorney General has reason to believe that such alien is deportable under paragraph (2), (3), or (4) of section 241(a).¹⁵⁵ If any alien who is authorized to depart voluntarily under the preceding sentence is financially unable to depart at his own expense and the Attorney General deems his removal to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for the enforcement of this Act.

(c) When a final order of deportation under administrative processes is made against any alien, the Attorney General shall have a period of six months from the date of such order, or, if judi-

^{154a} The exception was inserted by § 224(b) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4324, Oct. 25, 1994).

¹⁵⁵ § 603(b)(2)(A) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5085) substituted a reference to paragraph (2), (3), or (4) of section 241(a) for a reference to (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19) of section 241(a).

cial review is had, then from the date of the final order of the court, within which to effect the alien's departure from the United States, during which period, at the Attorney General's discretion, the alien may be detained, released on bond in an amount and containing such conditions as the Attorney General may prescribe, or released on such other conditions as the Attorney General may prescribe. Any court of competent jurisdiction shall have authority to review or revise any determination of the Attorney General concerning detention, release on bond, or other release during such six-month period upon a conclusive showing in habeas corpus proceedings that the Attorney General is not proceeding with such reasonable dispatch as may be warranted by the particular facts and circumstances in the case of any alien to effect such alien's departure from the United States within such six-month period. If deportation has not been practicable, advisable, or possible, or departure of the alien from the United States under the order of deportation has not been effected, within such six-month period, the alien shall become subject to such further supervision and detention pending eventual deportation as is authorized in this section. The Attorney General is hereby authorized and directed to arrange for appropriate places of detention for those aliens whom he shall take into custody and detain under this section. Where no Federal buildings are available or buildings adapted or suitably located for the purpose are available for rental, the Attorney General is hereby authorized, notwithstanding section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), or section 322 of the Act of June 30, 1932, as amended (40 U.S.C. 278a), to expend, from the appropriation provided for the administration and enforcement of the immigration laws, such amounts as may be necessary for the acquisition of land and the erection, acquisition, maintenance, operation, remodeling, or repair of buildings, sheds, and office quarters (including living quarters for officers where none are otherwise available), and adjunct facilities, necessary for the detention of aliens. For the purposes of this section an order of deportation heretofore or hereafter entered against an alien in legal detention or confinement, other than under an immigration process, shall be considered as being made as of the moment he is released from such detention or confinement, and not prior thereto.

(d) Any alien, against whom a final order of deportation as defined in subsection (c) heretofore or hereafter issued has been outstanding for more than six months, shall, pending eventual deportation, be subject to supervision under regulations prescribed by the Attorney General. Such regulations shall include provisions which will require any alien subject to supervision (1) to appear from time to time before an immigration officer for identification; (2) to submit, if necessary, to medical and psychiatric examination at the expense of the United States; (3) to give information under oath as to his nationality, circumstances, habits, associations, and activities, and such other information, whether or not related to the foregoing, as the Attorney General may deem fit and proper; and (4) to conform to such reasonable written restrictions on his conduct or activities as are prescribed by the Attorney General in his case. Any alien who shall willfully fail to comply with such regulations, or willfully fail to appear or to give information or submit to

medical or psychiatric examination if required, or knowingly give false information in relation to the requirements of such regulations, or knowingly violate a reasonable restriction imposed upon his conduct or activity, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.¹⁵⁶

(e) Any alien against whom a final order of deportation is outstanding by reason of being a member of any of the classes described in section 241(a)¹⁵⁷, who shall willfully fail or refuse to depart from the United States within a period of six months from the date of the final order of deportation under administrative processes, or, if judicial review is had, then from the date of the final order of the court, or shall willfully fail or refuse to make timely application in good faith for travel or other documents necessary to his departure, or who shall connive or conspire, or take any other action, designed to prevent or hamper or with the purpose of preventing or hampering his departure pursuant to such order of deportation, or who shall willfully fail or refuse to present himself for deportation at the time and place required by the Attorney General pursuant to such order of deportation, shall upon conviction be guilty of a felony, and shall¹⁵⁷ be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a): *Provided*, That this subsection shall not make it illegal for any alien to take any proper steps for the purpose of securing cancellation of or exemption from such order of deportation or for the purpose of securing his release from incarceration or custody: *Provided further*, That the court may for good cause suspend the sentence of such alien and order his release under such conditions as the court may prescribe. In determining whether good cause has been shown to justify releasing the alien, the court shall take into account such factors as (1) the age, health, and period of detention of the alien; (2) the effect of the alien's release upon the national security and public peace or safety; (3) the likelihood of the alien's resuming or following a course of conduct which made or would make him deportable; (4) the character of the efforts made by such alien himself and by representatives of the country or countries to which his deportation is directed to expedite the alien's departure from the United States; (5) the reason for the inability of the Government of the United States to secure passports, other travel documents, or deportation facilities from the country or countries to which the alien has been ordered deported; and (6) the eligibility of the alien for discretionary relief under the immigration laws.

(f) Should the Attorney General find that any alien has unlawfully reentered the United States after having previously departed or been deported pursuant to an order of deportation, whether before or after the date of enactment of this Act, on any ground described in any of the paragraphs enumerated in subsection (e), the

¹⁵⁶This crime is classified as a Class E felony under § 3559(a) of title 18, United States Code, and, under § 3571(b) of title 18, United States Code, the maximum fine is the *greater* of the amount specified under this section or \$250,000.

¹⁵⁷§ 130001(a) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 2023, Sept. 13, 1994) struck "paragraph (2), (3), or (4) of" before "section 241(a)" and provided for a 10 year criminal penalty for aliens described in paragraph (1)(E), (2), (3), or (4) of section 241 and a 4 year penalty for others; the extra period was added by that amendment.

previous order of deportation shall be deemed to be reinstated from its original date and such alien shall be deported under such previous order at any time subsequent to such reentry. For the purposes of subsection (e) the date on which the finding is made that such reinstatement is appropriate shall be deemed the date of the final order of deportation.

(g) If any alien, subject to supervision or detention under subsections (c) or (d) of this section, is able to depart from the United States under the order of deportation, except that he is financially unable to pay his passage, the Attorney General may in his discretion permit such alien to depart voluntarily, and the expense of such passage to the country to which he is destined may be paid from the appropriation for the enforcement of this Act, unless such payment is otherwise provided for under this Act.

(h) An alien sentenced to imprisonment shall not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, supervised release, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

(i) ^{157a} In the case of an alien who is convicted of an offense which makes the alien subject to deportation, the Attorney General shall begin any deportation proceeding as expeditiously as possible after the date of the conviction.

(j) ^{157b} INCARCERATION.—

(1) If the chief executive officer of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the incarceration of an undocumented criminal alien submits a written request to the Attorney General, the Attorney General shall, as determined by the Attorney General—

(A) enter into a contractual arrangement which provides for compensation to the State or a political subdivision of the State, as may be appropriate, with respect to the incarceration of the undocumented criminal alien; or

(B) take the undocumented criminal alien into the custody of the Federal Government and incarcerate the alien.

(2) Compensation under paragraph (1)(A) shall be the average cost of incarceration of a prisoner in the relevant State as determined by the Attorney General.

(3) For purposes of this subsection, the term “undocumented criminal alien” means an alien who—

^{157a} § 225 of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103–416, 108 Stat. 4324, Oct. 25, 1994) provides as follows:

SEC. 225. CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.

No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)) shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

^{157b} Subsection (j) was added by § 20301(a) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103–322, 108 Stat. 1823, Sept. 13, 1994), effective as of October 1, 1994, under § 20301(b) of that Act. § 20301(c) of that Act provides as follows:

(c) **TERMINATION OF LIMITATION.**—Notwithstanding section 242(j)(5) of the Immigration and Nationality Act, as added by subsection (a), the requirements of section 242(j) of the Immigration and Nationality Act, as added by subsection (a), shall not be subject to the availability of appropriations on and after October 1, 2004.

(A) has been convicted of a felony and sentenced to a term of imprisonment; and

(B)(i) entered the United States without inspection or at any time or place other than as designated by the Attorney General;

(ii) was the subject of exclusion or deportation proceedings at the time he or she was taken into custody by the State or a political subdivision of the State; or

(iii) was admitted as a nonimmigrant and at the time he or she was taken into custody by the State or a political subdivision of the State has failed to maintain the non-immigrant status in which the alien was admitted or to which it was changed under section 248, or to comply with the conditions of any such status.

(4)(A) In carrying out paragraph (1), the Attorney General shall give priority to the Federal incarceration of undocumented criminal aliens who have committed aggravated felonies.

(B) The Attorney General shall ensure that undocumented criminal aliens incarcerated in Federal facilities pursuant to this subsection are held in facilities which provide a level of security appropriate to the crimes for which they were convicted.

(5) There are authorized to be appropriated such sums as may be necessary to carry out this subsection, of which the following amounts may be appropriated from the Violent Crime Reduction Trust Fund:

(A) \$130,000,000 for fiscal year 1995;

(B) \$300,000,000 for fiscal year 1996;

(C) \$330,000,000 for fiscal year 1997;

(D) \$350,000,000 for fiscal year 1998;

(E) \$350,000,000 for fiscal year 1999; and

(F) \$340,000,000 for fiscal year 2000.

EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES

SEC. 242A. [8 U.S.C. 1252a] (a) DEPORTATION OF CRIMINAL ALIENS.—

(1) IN GENERAL.—The Attorney General shall provide for the availability of special deportation proceedings at certain Federal, State, and local correctional facilities for aliens convicted of aggravated felonies (as defined in section 101(a)(43)). Such proceedings shall be conducted in conformity with section 242 (except as otherwise provided in this section), and in a manner which eliminates the need for additional detention at any processing center of the Service and in a manner which assures expeditious deportation, where warranted, following the end of the alien's incarceration for the underlying sentence.

(2) IMPLEMENTATION.—With respect to an alien convicted of an aggravated felony who is taken into custody by the Attorney Gen-

^{157c} § 130004(c) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 2028, Sept. 13, 1994) amended the heading of this section, the designation of subsections, and struck former subsection (c); indentation of paragraph (1) of subsection (a) reflects indentation of heading.

eral pursuant to section 242(a)(2), the Attorney General shall, to the maximum extent practicable, detain any such felon at a facility at which other such aliens are detained. In the selection of such facility, the Attorney General shall make reasonable efforts to ensure that the alien's access to counsel and right to counsel under section 292 are not impaired.

(3) **EXPEDITED**^{157d} proceedings.—(A) Notwithstanding any other provision of law, the Attorney General shall provide for the initiation and, to the extent possible, the completion of deportation proceedings, and any administrative appeals thereof, in the case of any alien convicted of an aggravated felony before the alien's release from incarceration for the underlying aggravated felony.

(B) Nothing in this section shall be construed as requiring the Attorney General to effect the deportation of any alien sentenced to actual incarceration, before release from the penitentiary or correctional institution where such alien is confined.¹⁵⁸

(4) **REVIEW**^{158a}.—(A) The Attorney General shall review and evaluate deportation proceedings conducted under this section. Within 12 months after the effective date of this section, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate concerning the effectiveness of such deportation proceedings in facilitating the deportation of aliens convicted of aggravated felonies.

(B) The Comptroller General shall monitor, review, and evaluate deportation proceedings conducted under this section.

(b)^{158b} **DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.**—

(1) The Attorney General may, in the case of an alien described in paragraph (2), determine the deportability of such alien under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony) and issue an order of deportation pursuant to the procedures set forth in this subsection or section 242(b).

(2) An alien is described in this paragraph if the alien—

(A) was not lawfully admitted for permanent residence at the time at which proceedings under this section commenced; and

(B) is not eligible for any relief from deportation under this Act.

(3) The Attorney General may not execute any order described in paragraph (1) until 30 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.

^{157d} Should be "EXPEDITED".

¹⁵⁸ § 506(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5050) struck " , unless the chief prosecutor or the judge in whose jurisdiction conviction occurred submits a written request to the Attorney General that such alien be so deported" before the period at the end, effective on November 29, 1990. In addition, § 512 of that Act, shown in Appendix II.A.1., authorizes appropriations for fiscal years 1991 through 1995 for 20 additional immigration judges to conduct proceedings under this subsection.

^{158a} Should be "REVIEW".

^{158b} This subsection (b) was added by § 130004(a) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 2026, Sept. 13, 1994), effective with respect to aliens against whom deportation proceedings are initiated after September 13, 1994, under § 130004(d) of that Act.

(4) Proceedings before the Attorney General under this subsection shall be in accordance with such regulations as the Attorney General shall prescribe. The Attorney General shall provide that—

(A) the alien is given reasonable notice of the charges and of the opportunity described in subparagraph (C);

(B) the alien shall have the privilege of being represented (at no expense to the government) by such counsel, authorized to practice in such proceedings^{158c}, as the alien shall choose;

(C) the alien has a reasonable opportunity to inspect the evidence and rebut the charges;

(D)^{158d} a record is maintained for judicial review; and

(E) the final order of deportation is not adjudicated^{158e} by the same person who issues the charges.

(d)^{158f} JUDICIAL DEPORTATION.—

(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A), if such an order has been requested by the United States Attorney with the concurrence of the Commissioner and if the court chooses to exercise such jurisdiction.

(2) PROCEDURE.—

(A) The United States Attorney shall file with the United States district court, and serve upon the defendant and the Service, prior to commencement of the trial or entry of a guilty plea a notice of intent to request judicial deportation.

(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 30 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and identifying the crime or crimes which make the defendant deportable under section 241(a)(2)(A).

(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under this Act, the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief. The court shall either grant or deny the relief sought.

(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evi-

^{158c} Incorrect spelling in original; should be "proceedings".

^{158d} The phrase "the determination of deportability is supported by clear, convincing, and unequivocal evidence and" was stricken by § 223(a)(1) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4322, Oct. 25, 1994).

^{158e} § 223(a)(2) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4322, Oct. 25, 1994) struck "entered" and inserted "adjudicated".

^{158f} Subsection (d) was added by § 224(a) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4322, Oct. 25, 1994), applicable to all aliens whose adjudication of guilt or guilty plea is entered in the record after October 25, 1994, under § 224(c) of that Act; the subsection should have been designated as subsection (c).

dence on his or her own behalf, and to cross-examine witnesses presented by the Government.

(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

(iv) The court may order the alien deported if the Attorney General demonstrates that the alien is deportable under this Act.

(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—

(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the terms of the order. If the conviction is reversed on direct appeal, the order entered pursuant to this section shall be void.

(B) As soon as is practicable after entry of a judicial order of deportation, the Commissioner shall provide the defendant with written notice of the order of deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

(4) DENIAL OF JUDICIAL ORDER.—Denial without a decision on the merits of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).

DEPORTATION PROCEDURES ¹⁵⁹

SEC. 242B. [8 U.S.C. 1252b] (a) NOTICES.—

(1) ORDER TO SHOW CAUSE.—In deportation proceedings under section 242, written notice (in this section referred to as an “order to show cause”) shall be given in person to the alien (or, if personal service is not practicable, such notice shall be

¹⁵⁹ Section 242B was inserted by § 545(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5061), effective as provided in § 545(g) of that Act, and was amended by § 306(b)(6) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1753), effective as if included in the Immigration Act of 1990.

given by certified mail to the alien or to the alien's counsel of record, if any) specifying the following:

(A) The nature of the proceedings against the alien.

(B) The legal authority under which the proceedings are conducted.

(C) The acts or conduct alleged to be in violation of law.

(D) The charges against the alien and the statutory provisions alleged to have been violated.

(E) The alien may be represented by counsel and the alien will be provided a list of counsel prepared under subsection (b)(2).

(F)(i) The requirement that the alien must immediately provide (or have provided) the Attorney General with a written record of an address and telephone number (if any) at which the alien may be contacted respecting proceedings under section 242.

(ii) The requirement that the alien must provide the Attorney General immediately with a written record of any change of the alien's address or telephone number.

(iii) The consequences under subsection (c)(2) of failure to provide address and telephone information pursuant to this subparagraph.

(2) NOTICE OF TIME AND PLACE OF PROCEEDINGS.—In deportation proceedings under section 242—

(A) written notice shall be given in person to the alien (or, if personal service is not practicable, written notice shall be given by certified mail to the alien or to the alien's counsel of record, if any), in the order to show cause or otherwise, of—

(i) the time and place at which the proceedings will be held, and

(ii) the consequences under subsection (c) of the failure, except under exceptional circumstances, to appear at such proceedings; and

(B) in the case of any change or postponement in the time and place of such proceedings, written notice shall be given in person to the alien (or, if personal service is not practicable, written notice shall be given by certified mail to the alien or to the alien's counsel of record, if any) of—

(i) the new time or place of the proceedings, and

(ii) the consequences under subsection (c) of failing, except under exceptional circumstances, to attend such proceedings.

In the case of an alien not in detention, a written notice shall not be required under this paragraph if the alien has failed to provide the address required under subsection (a)(1)(F).

(3) FORM OF INFORMATION.—Each order to show cause or other notice under this subsection—

(A) shall be in English and Spanish, and

(B) shall specify that the alien may be represented by an attorney in deportation proceedings under section 242 and will be provided, in accordance with subsection (b)(1),

a period of time in order to obtain counsel and a current list described in subsection (b)(2).

(4) CENTRAL ADDRESS FILES.—The Attorney General shall create a system to record and preserve on a timely basis notices of addresses and telephone numbers (and changes) provided under paragraph (1)(F).

(b) SECURING OF COUNSEL.—

(1) IN GENERAL.—In order that an alien be permitted the opportunity to secure counsel before the first hearing date in proceedings under section 242, the hearing date shall not be scheduled earlier than 14 days after the service of the order to show cause, unless the alien requests in writing an earlier hearing date.

(2) CURRENT LISTS OF COUNSEL.—The Attorney General shall provide for lists (updated not less often than quarterly) of persons who have indicated their availability to represent pro bono aliens in proceedings under section 242. Such lists shall be provided under subsection (a)(1)(E) and otherwise made generally available.

(c) CONSEQUENCES OF FAILURE TO APPEAR.—

(1) IN GENERAL.—Any alien who, after written notice required under subsection (a)(2) has been provided to the alien or the alien's counsel of record, does not attend a proceeding under section 242, shall be ordered deported under section 242(b)(1) in absentia if the Service establishes by clear, unequivocal, and convincing evidence that the written notice was so provided and that the alien is deportable. The written notice by the Attorney General shall be considered sufficient for purposes of this paragraph if provided at the most recent address provided under subsection (a)(1)(F).

(2) NO NOTICE IF FAILURE TO PROVIDE ADDRESS INFORMATION.—No written notice shall be required under paragraph (1) if the alien has failed to provide the address required under subsection (a)(1)(F).

(3) RESCISSION OF ORDER.—Such an order may be rescinded only—

(A) upon a motion to reopen filed within 180 days after the date of the order of deportation if the alien demonstrates that the failure to appear was because of exceptional circumstances (as defined in subsection (f)(2)), or

(B) upon a motion to reopen filed at any time if the alien demonstrates that the alien did not receive notice in accordance with subsection (a)(2) or the alien demonstrates that the alien was in Federal or State custody and did not appear through no fault of the alien.

The filing of the motion to reopen described in subparagraph (A) or (B) shall stay the deportation of the alien pending disposition of the motion.

(4) EFFECT ON JUDICIAL REVIEW.—Any petition for review under section 106 of an order entered in absentia under this subsection shall, notwithstanding such section, be filed not later than 60 days (or 30 days in the case of an alien convicted of an aggravated felony) after the date of the final order of deportation and shall (except in cases described in section

106(a)(5)) be confined to the issues of the validity of the notice provided to the alien, to the reasons for the alien's not attending the proceeding, and to whether or not clear, convincing, and unequivocal evidence of deportability has been established.

(d) TREATMENT OF FRIVOLOUS BEHAVIOR.—The Attorney General shall, by regulation—

(1) define in a proceeding before a special inquiry officer or before an appellate administrative body under this title, frivolous behavior for which attorneys may be sanctioned,

(2) specify the circumstances under which an administrative appeal of a decision or ruling will be considered frivolous and will be summarily dismissed, and

(3) impose appropriate sanctions (which may include suspension and disbarment) in the case of frivolous behavior.

Nothing in this subsection shall be construed as limiting the authority of the Attorney General to take actions with respect to inappropriate behavior.

(e) LIMITATION ON DISCRETIONARY RELIEF FOR FAILURE TO APPEAR.—

(1) AT DEPORTATION PROCEEDINGS.—Any alien against whom a final order of deportation is entered in absentia under this section and who, at the time of the notice described in subsection (a)(2), was provided oral notice, either in the alien's native language or in another language the alien understands, of the time and place of the proceedings and of the consequences under this paragraph of failing, other than because of exceptional circumstances (as defined in subsection (f)(2)) to attend a proceeding under section 242, shall not be eligible for relief described in paragraph (5) for a period of 5 years after the date of the entry of the final order of deportation.

(2) VOLUNTARY DEPARTURE.—

(A) IN GENERAL.—Subject to subparagraph (B), any alien allowed to depart voluntarily under section 244(e)(1) or who has agreed to depart voluntarily at his own expense under section 242(b)(1) who remains in the United States after the scheduled date of departure, other than because of exceptional circumstances, shall not be eligible for relief described in paragraph (5) for a period of 5 years after the scheduled date of departure or the date of unlawful reentry, respectively.

(B) WRITTEN AND ORAL NOTICE REQUIRED.—Subparagraph (A) shall not apply to an alien allowed to depart voluntarily unless, before such departure, the Attorney General has provided written notice to the alien in English and Spanish and oral notice either in the alien's native language or in another language the alien understands of the consequences under subparagraph (A) of the alien's remaining in the United States after the scheduled date of departure, other than because of exceptional circumstances.

(3) FAILURE TO APPEAR UNDER DEPORTATION ORDER.—

(A) IN GENERAL.—Subject to subparagraph (B), any alien against whom a final order of deportation is entered under this section and who fails, other than because of ex-

ceptional circumstances, to appear for deportation at the time and place ordered shall not be eligible for relief described in paragraph (5) for a period of 5 years after the date the alien was required to appear for deportation.

(B) WRITTEN AND ORAL NOTICE REQUIRED.—Subparagraph (A) shall not apply to an alien against whom a deportation order is entered unless the Attorney General has provided, orally in the alien's native language or in another language the alien understands and in the final order of deportation under this section of the consequences under subparagraph (A) of the alien's failure, other than because of exceptional circumstances, to appear for deportation at the time and place ordered.

(4) FAILURE TO APPEAR FOR ASYLUM HEARING.—¹⁶⁰

(A) IN GENERAL.—Subject to subparagraph (B), any alien—

(i) whose period of authorized stay (if any) has expired through the passage of time,

(ii) who has filed an application for asylum, and

(iii) who fails, other than because of exceptional circumstances, to appear at the time and place specified for the asylum hearing,

shall not be eligible for relief described in paragraph (5) for a period of 5 years after the date of the asylum hearing.

(B) WRITTEN AND ORAL NOTICE REQUIRED.—Subparagraph (A) shall not apply in the case of an alien with respect to a failure to be present at a hearing unless—

(i) written notice in English and Spanish, and oral notice either in the alien's native language or in another language the alien understands, was provided to the alien of the time and place at which the asylum hearing will be held, and in the case of any change or postponement in such time or place, written notice in English and Spanish, and oral notice either in the alien's native language or in another language the alien understands, was provided to the alien of the new time or place of the hearing; and

(ii) notices under clause (i) specified the consequences under subparagraph (A) of failing, other than because of exceptional circumstances, to attend such hearing.

(5) RELIEF COVERED.—The relief described in this paragraph is—

(A) ^{159b} voluntary departure under section 242(b)(1),

(B) suspension of deportation or voluntary departure under section 244, and

(C) adjustment or change of status under section 245, 248, or 249.

¹⁶⁰ Paragraph (4) is effective on February 1, 1991, under §545(g)(3) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5066).

^{159b} The previous subparagraph (A) (relating to relief under section 212(c) of the INA) was stricken, and the previous subparagraphs (B) through (D) redesignated as subparagraphs (A) through (C), by §306(c)(6)(J) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1753).

(f) DEFINITIONS.—In this section:

(1) The term “certified mail” means certified mail, return receipt requested.

(2) The term “exceptional circumstances” refers to exceptional circumstances (such as serious illness of the alien or death of an immediate relative of the alien, but not including less compelling circumstances) beyond the control of the alien.

COUNTRIES TO WHICH ALIENS SHALL BE DEPORTED; COST OF
DEPORTATION

SEC. 243. [8 U.S.C. 1253] (a) The deportation of an alien in the United States provided for in this Act, or any other Act or treaty, shall be directed by the Attorney General to a country promptly designated by the alien if that country is willing to accept him into its territory, unless the Attorney General, in his discretion, concludes that deportation to such country would be prejudicial to the interests of the United States. No alien shall be permitted to make more than one such designation, nor shall any alien designate, as the place to which he wishes to be deported, any foreign territory contiguous to the United States or any island adjacent thereto or adjacent to the United States unless such alien is a native, citizen, subject, or national of, or had a residence in such designated foreign contiguous territory or adjacent island. If the government of the country designated by the alien fails finally to advise the Attorney General within three months following original inquiry whether that government will or will not accept such alien into its territory, such designation may thereafter be disregarded. Thereupon deportation of such alien shall be directed to any country of which such alien is a subject, national, or citizen if such country is willing to accept him into its territory. If the government of such country fails finally to advise the Attorney General or the alien within three months following the date of original inquiry, or within such other period as the Attorney General shall deem reasonable under the circumstances in a particular case, whether that government will or will not accept such alien into its territory, then such deportation shall be directed by the Attorney General within his discretion and without necessarily giving any priority or preference because of their order as herein set forth either—

(1) to the country from which such alien last entered the United States;

(2) to the country in which is located the foreign port at which such alien embarked for the United States or for foreign contiguous territory;

(3) to the country in which he was born;

(4) to the country in which the place of his birth is situated at the time he is ordered deported;

(5) to any country in which he resided prior to entering the country from which he entered the United States;

(6) to the country which had sovereignty over the birthplace of the alien at the time of his birth; or

(7) if deportation to any of the foregoing places or countries is impracticable, inadvisable, or impossible, then to any country which is willing to accept such alien into its territory.

(b) If the United States is at war and the deportation, in accordance with the provisions of subsection (a), of any alien who is deportable under any law of the United States shall be found by the Attorney General to be impracticable, inadvisable, inconvenient, or impossible because of enemy occupation of the country from which such alien came or wherein is located the foreign port at which he embarked for the United States or because of reasons connected with the war, such alien may, in the discretion of the Attorney General, be deported as follows:

(1) If such alien is a citizen or subject of a country whose recognized government is in exile, to the country in which is located that government in exile if that country will permit him to enter its territory; or

(2) if such alien is a citizen or subject of a country whose recognized government is not in exile, then to a country or any political or territorial subdivision thereof which is proximate to the country of which the alien is a citizen or subject, or, with the consent of the country of which the alien is a citizen or subject, to any other country.

(c) If deportation proceedings are instituted at any time within five years after the entry of the alien for causes existing prior to or at the time of entry, the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this Act, and the deportation from such port shall be at the expense of the owner or owners of the vessels, aircraft, or other transportation lines by which such alien came to the United States, or if in the opinion of the Attorney General that is not practicable, at the expense of the appropriation for the enforcement of this Act: *Provided*, That the costs of the deportation of any such alien from such port shall not be assessed against the owner or owners of the vessels, aircraft, or other transportation lines in the case of any alien who arrived in possession of a valid unexpired immigrant visa and who was inspected and admitted to the United States for permanent residence. In the case of an alien crewman, if deportation proceedings are instituted at any time within five years after the granting of the last conditional permit to land temporarily under the provisions of section 252, the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this Act and the deportation from such port shall be at the expense of the owner or owners of the vessels or aircraft by which such alien came to the United States, or if in the opinion of the Attorney General that is not practicable, at the expense of the appropriation for the enforcement of this Act.

(d) If deportation proceedings are instituted later than five years after the entry of the alien, or in the case of an alien crewman later than five years after the granting of the last conditional permit to land temporarily, the cost thereof shall be payable from the appropriation for the enforcement of this Act.

(e) A failure or refusal on the part of the master, commanding officer, agent, owner, charterer, or consignee of a vessel, aircraft, or other transportation line to comply with the order of the Attorney General to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this Act, or a failure or refusal by any such person

to comply with an order of the Attorney General to pay deportation expenses in accordance with the requirements of this section, shall be punished by the imposition of a penalty in the sum and manner prescribed in section 237(b).

(f) When in the opinion of the Attorney General the mental or physical condition of an alien being deported is such as to require personal care and attendance, the Attorney General shall, when necessary, employ a suitable person for that purpose who shall accompany such alien to his final destination, and the expense incident to such service shall be defrayed in the same manner as the expense of deporting the accompanied alien is defrayed, and any failure or refusal to defray such expenses shall be punished in the manner prescribed by subsection (e) of this section.

(g) Upon the notification by the Attorney General that any country upon request denies or unduly delays acceptance of the return of any alien who is a national, citizen, subject, or resident thereof, the Secretary of State shall instruct consular officers performing their duties in the territory of such country to discontinue the issuance of immigrant visas to nationals, citizens, subjects, or residents of such country, until such time as the Attorney General shall inform the Secretary of State that such country has accepted such alien.¹⁶¹

(h)(1) The Attorney General shall not deport or return any alien (other than an alien described in section 241(a)(4)(D)¹⁶²) to a country if the Attorney General determines that such alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

(2) Paragraph (1) shall not apply to any alien if the Attorney General determines that—

(A) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(B) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

(C) there are serious reasons for considering that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States; or

(D) there are reasonable grounds for regarding the alien as a danger to the security of the United States.

¹⁶¹The processing of immigrant visa applications of Cuban nationals in third countries was required, notwithstanding this subsection, by subsections (b) and (c) of § 702 of the Cuban Political Prisoners and Immigrants [sic] (contained in Pub. L. 100-202, 101 Stat. 1329-40, Dec. 22, 1987), shown in Appendix III.G., and by § 903 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100-204, 101 Stat. 1401, Dec. 22, 1987), shown in Appendix II.E. See also § 315(c) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3440), shown in Appendix II.B.1., respecting the sense of Congress respecting treatment of Cuban political prisoners.

¹⁶²§ 603(b)(3) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5085) substituted a reference to section 241(a)(4)(D) for a reference to section 241(a)(19).

For purposes of subparagraph (B), an alien who has been convicted of an aggravated felony shall be considered to have committed a particularly serious crime.¹⁶³

SUSPENSION OF DEPORTATION; VOLUNTARY DEPARTURE

SEC. 244. [8 U.S.C. 1254] (a) As hereinafter prescribed in this section, the Attorney General may, in his discretion, suspend deportation and adjust the status to that of an alien lawfully admitted for permanent residence, in the case of an alien (other than an alien described in section 241(a)(4)(D)) who applies to the Attorney General for suspension of deportation and—

(1) is deportable under any law of the United States except the provisions specified in paragraph (2) of this subsection; has been physically present in the United States for a continuous period of not less than seven years immediately preceding the date of such application, and proves that during all of such period he was and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence;

(2) is deportable under paragraph (2), (3), or (4)¹⁶⁴ of section 241(a); has been physically present in the United States for a continuous period of not less than 10 years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation, and proves that during all of such period he has been and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence; or

(3)^{164a} is deportable under any law of the United States except section 241(a)(1)(G) and the provisions specified in paragraph (2); has been physically present in the United States for a continuous period of not less than 3 years immediately preceding the date of such application; has been battered or subjected to extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident (or is the parent of a child of a United States citizen or lawful permanent resident and the child has been battered or subjected to extreme cruelty in the United States by such citizen or permanent resident parent); and proves that during all of such time in the United States the alien was and is a person

¹⁶³ The last sentence was added by § 515(a)(2) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5053), effective as of November 29, 1990, and applicable to convictions entered as of any date and applicable to applications for withholding of deportation made on or after November 29, 1990 (under § 515(b)(2) of that Act, as amended by § 306(a)(13) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Dec. 12, 1991, 105 Stat. 1752)).

¹⁶⁴ § 603(b)(4)(A) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5085) struck "paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), or (18)" and inserted "paragraph (2), (3), or (4)". Previous law stated "paragraphs (4).", but executed to reflect probable intent.

^{164a} Paragraph (3) was inserted by § 40703(a)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 1955, Sept. 13, 1994).

of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or the alien's parent or child.

(b)(1) The requirement of continuous physical presence in the United States specified in paragraphs (1) and (2) of subsection (a) of this section shall not be applicable to an alien who (A) has served for a minimum period of twenty-four months in an active-duty status in the Armed Forces of the United States and, if separated from such service, was separated under honorable conditions, and (B) at the time of his enlistment or induction was in the United States.

(2) An alien shall not be considered to have failed to maintain continuous physical presence in the United States under paragraphs (1) and (2) of subsection (a) if the absence from the United States was brief, casual, and innocent and did not meaningfully interrupt the continuous physical presence.

(c) Upon application by any alien who is found by the Attorney General to meet the requirements of subsection (a) of this section the Attorney General may in his discretion suspend deportation of such alien.

(d) Upon the cancellation of deportation in the case of any alien under this section, the Attorney General shall record the alien's lawful admission for permanent residence as of the date the cancellation of deportation of such alien is made.

(e)(1) Except as provided in paragraph (2), the Attorney General may, in his discretion, permit any alien under deportation proceedings, other than an alien within the provisions of paragraph (2), (3), or (4)¹⁶⁵ of section 241(a) (and also any alien within the purview of such paragraphs if he is also within the provisions of paragraph (2) of subsection (a) of this section), to depart voluntarily from the United States at his own expense in lieu of deportation if such alien shall establish to the satisfaction of the Attorney General that he is, and has been, a person of good moral character for at least five years immediately preceding his application for voluntary departure under this subsection.

(2) The authority contained in paragraph (1) shall not apply to any alien who is deportable because of a conviction for an aggravated felony.

(f) The provisions of subsection (a) shall not apply to an alien who—

(1) entered the United States as a crewman subsequent to June 30, 1964;

(2) was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant exchange alien after admission, in order to receive graduate medical education, or training, regardless of whether or not the alien is subject to or has fulfilled the two-year foreign residence requirement of section 212(e); or

(3)(A) was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J) or

¹⁶⁵ § 603(b)(4)(B) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5085) struck "(4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)" and inserted "(2), (3), or (4)".

has acquired the status of such a nonimmigrant exchange alien after admission other than to receive graduate medical education or training, (B) is subject to the two-year foreign residence requirement of section 212(e), and (C) has not fulfilled that requirement or received a waiver thereof.

(g) ^{165a} In acting on applications under subsection (a)(3), the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.

TEMPORARY PROTECTED STATUS ¹⁶⁶

SEC. 244A. [8 U.S.C. 1254a] (a) GRANTING OF STATUS.—

(1) IN GENERAL.—In the case of an alien who is a national of a foreign state designated under subsection (b) (or in the case of an alien having no nationality, is a person who last habitually resided in such designated state) and who meets the requirements of subsection (c), the Attorney General, in accordance with this section—

^{165a} Subsection (g) was added by § 40703(b) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 1955, Sept. 13, 1994).

¹⁶⁶ Section 244A was inserted by § 302(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5030). For special provisions relating to the temporary designation of El Salvador under subsection (b) of this section, see § 303 of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5036), shown in Appendix II.A.1.

Also, Executive Order No. 12711, April 11, 1990, 55 F.R. 13897 (8 U.S.C. 1101 note), relating to policy implementation with respect to nationals of the People's Republic of China, provides as follows:

By the authority vested in me as President by the Constitution and statutes of the United States of America, the Attorney General and Secretary of State are hereby ordered to exercise their authority, including that under the Immigration and Nationality Act (8 U.S.C. 1101-1557), as follows:

Section 1. The Attorney General is directed to take any steps necessary to defer until January 1, 1994, the enforced departure of all nationals of the People's Republic of China (PRC) and their dependents who were in the United States on or after June 5, 1989, up to and including the date of this order (hereinafter "such PRC nationals").

Sec. 2. The Secretary of State and the Attorney General are directed to take all steps necessary with respect to such PRC nationals (1) to waive through January 1, 1994, the requirement of a valid passport and (2) to process and provide necessary documents, both within the United States and at United States consulates overseas, to facilitate travel across the borders of other nations and reentry into the United States in the same status such PRC nationals had upon departure.

Sec. 3. The Secretary of State and the Attorney General are directed to provide the following protections:

(1) irrevocable waiver of the 2-year home country residence requirements that may be exercised until January 1, 1994, for such PRC nationals;

(2) maintenance of lawful status for purposes of adjustment of status or change of nonimmigrant status for such PRC nationals who were in lawful status at any time on or after June 5, 1989, up to and including the date of this order;

(3) authorization for employment of such PRC nationals through January 1, 1994; and

(4) notice of expiration of nonimmigrant status (if applicable) rather than the institution of deportation proceedings, and explanation of options available for such PRC nationals eligible for deferral of enforced departure whose nonimmigrant status has expired.

Sec. 4. The Secretary of State and the Attorney General are directed to provide for enhanced consideration under the immigration laws for individuals from any country who express a fear of persecution upon return to their country related to that country's policy of forced abortion or coerced sterilization, as implemented by the Attorney General's regulation effective January 29, 1990.

Sec. 5. The Attorney General is directed to ensure that the Immigration and Naturalization Service finalizes and makes public its position on the issue of training for individuals in F-1 visa status and on the issue of reinstatement into lawful nonimmigrant status of such PRC nationals who have withdrawn their applications for asylum.

Sec. 6. The Departments of Justice and State are directed to consider other steps to assist such PRC nationals in their efforts to utilize the protections that I have extended pursuant to this order.

Sec. 7. This order shall be effective immediately.

(A) may grant the alien temporary protected status in the United States and shall not deport the alien from the United States during the period in which such status is in effect, and

(B) shall authorize the alien to engage in employment in the United States and provide the alien with an "employment authorized" endorsement or other appropriate work permit.

(2) DURATION OF WORK AUTHORIZATION.—Work authorization provided under this section shall be effective throughout the period the alien is in temporary protected status under this section.

(3) NOTICE.—

(A) Upon the granting of temporary protected status under this section, the Attorney General shall provide the alien with information concerning such status under this section.

(B) If, at the time of initiation of a deportation proceeding against an alien, the foreign state (of which the alien is a national) is designated under subsection (b), the Attorney General shall promptly notify the alien of the temporary protected status that may be available under this section.

(C) If, at the time of designation of a foreign state under subsection (b), an alien (who is a national of such state) is in a deportation proceeding under this title, the Attorney General shall promptly notify the alien of the temporary protected status that may be available under this section.

(D) Notices under this paragraph shall be provided in a form and language that the alien can understand.

(4) TEMPORARY TREATMENT FOR ELIGIBLE ALIENS.—

(A) In the case of an alien who can establish a prima facie case of eligibility for benefits under paragraph (1), but for the fact that the period of registration under subsection (c)(1)(A)(iv) has not begun, until the alien has had a reasonable opportunity to register during the first 30 days of such period, the Attorney General shall provide for the benefits of paragraph (1).

(B) In the case of an alien who establishes a prima facie case of eligibility for benefits under paragraph (1), until a final determination with respect to the alien's eligibility for such benefits under paragraph (1) has been made, the alien shall be provided such benefits.

(5) CLARIFICATION.—Nothing in this section shall be construed as authorizing the Attorney General to deny temporary protected status to an alien based on the alien's immigration status or to require any alien, as a condition of being granted such status, either to relinquish nonimmigrant or other status the alien may have or to execute any waiver of other rights under this Act. The granting of temporary protected status under this section shall not be considered to be inconsistent with the granting of nonimmigrant status under this Act.

(b) DESIGNATIONS.—

(1) IN GENERAL.—The Attorney General, after consultation with appropriate agencies of the Government, may designate any foreign state (or any part of such foreign state) under this subsection only if—

(A) the Attorney General finds that there is an ongoing armed conflict within the state and, due to such conflict, requiring the return of aliens who are nationals of that state to that state (or to the part of the state) would pose a serious threat to their personal safety;

(B) the Attorney General finds that—

(i) there has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial, but temporary, disruption of living conditions in the area affected,

(ii) the foreign state is unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state, and

(iii) the foreign state officially has requested designation under this subparagraph; or

(C) the Attorney General finds that there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the Attorney General finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.

A designation of a foreign state (or part of such foreign state) under this paragraph shall not become effective unless notice of the designation (including a statement of the findings under this paragraph and the effective date of the designation) is published in the Federal Register. In such notice, the Attorney General shall also state an estimate of the number of nationals of the foreign state designated who are (or within the effective period of the designation are likely to become) eligible for temporary protected status under this section and their immigration status in the United States.

(2) EFFECTIVE PERIOD OF DESIGNATION FOR FOREIGN STATES.—The designation of a foreign state (or part of such foreign state) under paragraph (1) shall—

(A) take effect upon the date of publication of the designation under such paragraph, or such later date as the Attorney General may specify in the notice published under such paragraph, and

(B) shall remain in effect until the effective date of the termination of the designation under paragraph (3)(B).

For purposes of this section, the initial period of designation of a foreign state (or part thereof) under paragraph (1) is the period, specified by the Attorney General, of not less than 6 months and not more than 18 months.

(3) PERIODIC REVIEW, TERMINATIONS, AND EXTENSIONS OF DESIGNATIONS.—

(A) PERIODIC REVIEW.—At least 60 days before end of the initial period of designation, and any extended period of designation, of a foreign state (or part thereof) under

this section the Attorney General, after consultation with appropriate agencies of the Government, shall review the conditions in the foreign state (or part of such foreign state) for which a designation is in effect under this subsection and shall determine whether the conditions for such designation under this subsection continue to be met. The Attorney General shall provide on a timely basis for the publication of notice of each such determination (including the basis for the determination, and, in the case of an affirmative determination, the period of extension of designation under subparagraph (C)) in the Federal Register.

(B) **TERMINATION OF DESIGNATION.**—If the Attorney General determines under subparagraph (A) that a foreign state (or part of such foreign state) no longer continues to meet the conditions for designation under paragraph (1), the Attorney General shall terminate the designation by publishing notice in the Federal Register of the determination under this subparagraph (including the basis for the determination). Such termination is effective in accordance with subsection (d)(3), but shall not be effective earlier than 60 days after the date the notice is published or, if later, the expiration of the most recent previous extension under subparagraph (C).

(C) **EXTENSION OF DESIGNATION.**—If the Attorney General does not determine under subparagraph (A) that a foreign state (or part of such foreign state) no longer meets the conditions for designation under paragraph (1), the period of designation of the foreign state is extended for an additional period of 6 months (or, in the discretion of the Attorney General, a period of 12 or 18 months).

(4) **INFORMATION CONCERNING PROTECTED STATUS AT TIME OF DESIGNATIONS.**—At the time of a designation of a foreign state under this subsection, the Attorney General shall make available information respecting the temporary protected status made available to aliens who are nationals of such designated foreign state.

(5) **REVIEW.**—

(A) **DESIGNATIONS.**—There is no judicial review of any determination of the Attorney General with respect to the designation, or termination or extension of a designation, of a foreign state under this subsection.

(B) **APPLICATION TO INDIVIDUALS.**—The Attorney General shall establish an administrative procedure for the review of the denial of benefits to aliens under this subsection. Such procedure shall not prevent an alien from asserting protection under this section in deportation proceedings if the alien demonstrates that the alien is a national of a state designated under paragraph (1).

(c) **ALIENS ELIGIBLE FOR TEMPORARY PROTECTED STATUS.**—

(1) **IN GENERAL.**—

(A) **NATIONALS OF DESIGNATED FOREIGN STATES.**—Subject to paragraph (3), an alien, who is a national of a state designated under subsection (b)(1) (or in the case of an

alien having no nationality, is a person who last habitually resided in such designated state), meets the requirements of this paragraph only if—

(i) the alien has been continuously physically present in the United States since the effective date of the most recent designation of that state;

(ii) the alien has continuously resided in the United States since such date as the Attorney General may designate;

(iii) the alien is admissible as an immigrant, except as otherwise provided under paragraph (2)(A), and is not ineligible for temporary protected status under paragraph (2)(B); and

(iv) to the extent and in a manner which the Attorney General establishes, the alien registers for the temporary protected status under this section during a registration period of not less than 180 days.

(B) REGISTRATION FEE.—The Attorney General may require payment of a reasonable fee as a condition of registering an alien under subparagraph (A)(iv) (including providing an alien with an “employment authorized” endorsement or other appropriate work permit under this section). The amount of any such fee shall not exceed \$50. In ¹⁶⁷ the case of aliens registered pursuant to a designation under this section made after July 17, 1991, the Attorney General may impose a separate, additional fee for providing an alien with documentation of work authorization. Notwithstanding section 3302 of title 31, United States Code, all fees collected under this subparagraph shall be credited to the appropriation to be used in carrying out this section.

(2) ELIGIBILITY STANDARDS.—

(A) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—In the determination of an alien’s admissibility for purposes of subparagraph (A)(iii) of paragraph (1)—

(i) the provisions of paragraphs (5) and (7)(A) ¹⁶⁸ of section 212(a) shall not apply;

(ii) except as provided in clause (iii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest; but

(iii) ¹⁶⁹ the Attorney General may not waive—

(I) paragraphs (2)(A) and (2)(B) (relating to criminals) of such section,

¹⁶⁷ The last 2 sentences were added by § 304(b) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, 105 Stat. 1749), as amended by § 219(z)(2) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4318, Oct. 25, 1994).

¹⁶⁸ § 603(a)(24)(A) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5084) substituted a reference to paragraphs (5) and (7)(A) for a reference to paragraphs (14), (15), (20), (21), (25), and (32).

¹⁶⁹ § 603(a)(24) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5084) changed references in this clause to various paragraphs in section 212(a).

(II) paragraph (2)(C) of such section (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana, or

(III) paragraphs (3)(A), (3)(B), (3)(C), and (3)(E) of such section (relating to national security and participation in the Nazi persecutions or those who have engaged in genocide).¹⁷⁰

(B) **ALIENS INELIGIBLE.**—An alien shall not be eligible for temporary protected status under this section if the Attorney General finds that—

(i) the alien has been convicted of any felony or 2 or more misdemeanors committed in the United States, or

(ii) the alien is described in section 243(h)(2).

(3) **WITHDRAWAL OF TEMPORARY PROTECTED STATUS.**—The Attorney General shall withdraw temporary protected status granted to an alien under this section if—

(A) the Attorney General finds that the alien was not in fact eligible for such status under this section,

(B) except as provided in paragraph (4) and permitted in subsection (f)(3), the alien has not remained continuously physically present in the United States from the date the alien first was granted temporary protected status under this section, or

(C) the alien fails, without good cause, to register with the Attorney General annually, at the end of each 12-month period after the granting of such status, in a form and manner specified by the Attorney General.

(4) **TREATMENT OF BRIEF, CASUAL, AND INNOCENT DEPARTURES AND CERTAIN OTHER ABSENCES.**—

(A) For purposes of paragraphs (1)(A)(i) and (3)(B), an alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences from the United States, without regard to whether such absences were authorized by the Attorney General.

(B) For purposes of paragraph (1)(A)(ii), an alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence described in subparagraph (A) or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

(5) **CONSTRUCTION.**—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for temporary protected status under this section.

¹⁷⁰ Subclause (III) was amended to read as shown by § 307(l)(5)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1756) and was further amended by § 219(j) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4317, Oct. 25, 1994), effective as if included in the enactment of the Immigration Act of 1990.

(6) CONFIDENTIALITY OF INFORMATION.—The Attorney General shall establish procedures to protect the confidentiality of information provided by aliens under this section.

(d) DOCUMENTATION.—

(1) INITIAL ISSUANCE.—Upon the granting of temporary protected status to an alien under this section, the Attorney General shall provide for the issuance of such temporary documentation and authorization as may be necessary to carry out the purposes of this section.

(2) PERIOD OF VALIDITY.—Subject to paragraph (3), such documentation shall be valid during the initial period of designation of the foreign state (or part thereof) involved and any extension of such period. The Attorney General may stagger the periods of validity of the documentation and authorization in order to provide for an orderly renewal of such documentation and authorization and for an orderly transition (under paragraph (3)) upon the termination of a designation of a foreign state (or any part of such foreign state).

(3) EFFECTIVE DATE OF TERMINATIONS.—If the Attorney General terminates the designation of a foreign state (or part of such foreign state) under subsection (b)(3)(B), such termination shall only apply to documentation and authorization issued or renewed after the effective date of the publication of notice of the determination under that subsection (or, at the Attorney General's option, after such period after the effective date of the determination as the Attorney General determines to be appropriate in order to provide for an orderly transition).

(4) DETENTION OF THE ALIEN.—An alien provided temporary protected status under this section shall not be detained by the Attorney General on the basis of the alien's immigration status in the United States.

(e) RELATION OF PERIOD OF TEMPORARY PROTECTED STATUS TO SUSPENSION OF DEPORTATION.—With respect to an alien granted temporary protected status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 244(a), unless the Attorney General determines that extreme hardship exists. Such period shall not cause a break in the continuity of residence of the period before and after such period for purposes of such section.

(f) BENEFITS AND STATUS DURING PERIOD OF TEMPORARY PROTECTED STATUS.—During a period in which an alien is granted temporary protected status under this section—

(1) the alien shall not be considered to be permanently residing in the United States under color of law;

(2) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance;

(3) the alien may travel abroad with the prior consent of the Attorney General;¹⁷¹ and

¹⁷¹ Subsection (c) of § 304 of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1749) provides as follows:

(c)(1) In the case of an alien described in paragraph (2) whom the Attorney General authorizes to travel abroad temporarily and who returns to the United States in accordance with such authorization—

(4) for purposes of adjustment of status under section 245 and change of status under section 248, the alien shall be considered as being in, and maintaining, lawful status as a non-immigrant.

(g)¹⁷² EXCLUSIVE REMEDY.—Except as otherwise specifically provided, this section shall constitute the exclusive authority of the Attorney General under law to permit aliens who are or may become otherwise deportable or have been paroled into the United States to remain in the United States temporarily because of their particular nationality or region of foreign state of nationality.

(h) LIMITATION ON CONSIDERATION IN THE SENATE OF LEGISLATION ADJUSTING STATUS.—

(1) IN GENERAL.—Except as provided in paragraph (2), it shall not be in order in the Senate to consider any bill, resolution, or amendment that—

(A) provides for adjustment to lawful temporary or permanent resident alien status for any alien receiving temporary protected status under this section, or

(B) has the effect of amending this subsection or limiting the application of this subsection.

(2) SUPERMAJORITY REQUIRED.—Paragraph (1) may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate duly chosen and sworn shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under paragraph (1).

(3) RULES.—Paragraphs (1) and (2) are enacted—

(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the matters described in paragraph (1) and supersede other rules of the Senate only to the extent that such paragraphs are inconsistent therewith; and

(A) the alien shall be inspected and admitted in the same immigration status the alien had at the time of departure if—

(i) in the case of an alien described in paragraph (2)(A), the alien is found not to be excludable on a ground of exclusion referred to in section 301(a)(1) of the Immigration Act of 1990, or

(ii) in the case of an alien described in paragraph (2)(B), the alien is found not to be excludable on a ground of exclusion referred to in section 244A(c)(2)(A)(iii) of the Immigration and Nationality Act; and

(B) the alien shall not be considered, by reason of such authorized departure, to have failed to maintain continuous physical presence in the United States for purposes of section 244(a) of the Immigration and Nationality Act if the absence meets the requirements of section 244(b)(2) of such Act.

(2) Aliens described in this paragraph are the following:

(A) Aliens provided benefits under section 301 of the Immigration Act of 1990 (relating to family unity).

(B) Aliens provided temporary protected status under section 244A of the Immigration and Nationality Act, including aliens provided such status under section 303 of the Immigration Act of 1990.

¹⁷² § 302(c) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5036) provides as follows:

(c) NO AFFECT ON EXECUTIVE ORDER 12711.—Notwithstanding subsection (g) of section 244A of the Immigration and Nationality Act (inserted by the amendment made by subsection (a)), such section shall not supercede or affect Executive Order 12711 (April 11, 1990, relating to policy implementation with respect to nationals of the People's Republic of China).

Reference to "AFFECT" should have been a reference to "EFFECT".

(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner as in the case of any other rule of the Senate.

(i) ANNUAL REPORT AND REVIEW.—

(1) ANNUAL REPORT.—Not later than March 1 of each year (beginning with 1992), the Attorney General, after consultation with the appropriate agencies of the Government, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the operation of this section during the previous year. Each report shall include—

(A) a listing of the foreign states or parts thereof designated under this section,

(B) the number of nationals of each such state who have been granted temporary protected status under this section and their immigration status before being granted such status, and

(C) an explanation of the reasons why foreign states or parts thereof were designated under subsection (b)(1) and, with respect to foreign states or parts thereof previously designated, why the designation was terminated or extended under subsection (b)(3).

(2) COMMITTEE REPORT.—No later than 180 days after the date of receipt of such a report, the Committee on the Judiciary of each House of Congress shall report to its respective House such oversight findings and legislation as it deems appropriate.

ADJUSTMENT OF STATUS OF NONIMMIGRANT TO THAT OF PERSON
ADMITTED FOR PERMANENT RESIDENCE ¹⁷³

SEC. 245. [8 U.S.C. 1255] (a) The status of an alien who was inspected and admitted or paroled into the United States may be

¹⁷³ See Appendix IV for Acts providing for adjustment of status of certain nonimmigrants and parolees. Also, section 13 of the Act of September 11, 1957 (71 Stat. 642; 8 U.S.C. 1255b), as amended by § 17 of Pub. L. 97-116 and § 207 of P.L. 103-416 [which amendment was executed notwithstanding a comma was not present in the text stricken], provides as follows:

SEC. 13. Notwithstanding any other provision of law—

(a) Any alien admitted to the United States as a nonimmigrant under the provisions of either section 101(a)(15)(A) (i) or (ii) or 101(a)(15)(G) (i) or (ii) of the Immigration and Nationality Act, who has failed to maintain a status under any of those provisions, may apply to the Attorney General for adjustment of his status to that of an alien lawfully admitted for permanent residence.

(b) If, after consultation with the Secretary of State, it shall appear to the satisfaction of the Attorney General that the alien has shown compelling reasons demonstrating both that the alien is unable to return to the country represented by the government which accredited the alien or the member of the alien's immediate family and that adjustment of the alien's status to that of an alien lawfully admitted for permanent residence would be in the national interest, that the alien is a person of good moral character, that he is admissible for permanent residence under the Immigration and Nationality Act, and that such action would not be contrary to the national welfare, safety, or security, the Attorney General, in his discretion, may record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for adjustment of status is made.

(c) A complete and detailed statement of the facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such adjustment of status. Such reports shall be submitted on the first day of each calendar month in which Congress is in session. The Secretary of State shall, if the alien was classifiable as a quota immigrant at the time of his entry, reduce by one the quota of the quota area to which the alien is chargeable under section 202 of the Immigration and Nationality Act for the fiscal year then current or the next following year in which a quota is available. No quota shall be so reduced by more than 50 per centum in any fiscal year.

(d) The number of aliens who may be granted the status of aliens lawfully admitted for permanent residence in any fiscal year, pursuant to this section, shall not exceed fifty.

adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.

(b) Upon the approval of an application for adjustment made under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for the adjustment of status is made, and the Secretary of State shall reduce by one the number of the preference visas authorized to be issued under sections 202 and 203 within the class to which the alien is chargeable for the fiscal year then current.

(c) Subsection (a) shall not be applicable to (1) an alien crewman; (2) an alien (other than an immediate relative as defined in section 201(b) or a special immigrant described in section 101(a)(27)(H), (I), (J), or (K)) who hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status or who is in unlawful immigration status on the date of filing the application for adjustment of status or who has failed (other than through no fault of his own or for technical reasons) to maintain continuously a lawful status since entry into the United States; (3) any alien admitted in transit without visa under section 212(d)(4)(C); (4) an alien (other than an immediate relative as defined in section 201(b)) who was admitted as a nonimmigrant visitor without a visa under section 212(l) or section 217; or (5)^{173a} an alien who was admitted as a nonimmigrant described in section 101(a)(15)(S).

(d) The Attorney General may not adjust, under subsection (a), the status of an alien lawfully admitted to the United States for permanent residence on a conditional basis under section 216. The Attorney General may not adjust, under subsection (a), the status of a nonimmigrant alien described in section 101(a)(15)(K) (relating to an alien fiancée or fiancé or the minor child of such alien) except to that of an alien lawfully admitted to the United States on a conditional basis under section 216 as a result of the marriage of the nonimmigrant (or, in the case of a minor child, the parent) to the citizen who filed the petition to accord that alien's nonimmigrant status under section 101(a)(15)(K).

(e)(1) Except as provided in paragraph (3), an alien who is seeking to receive an immigrant visa on the basis of a marriage which was entered into during the period described in paragraph (2) may not have the alien's status adjusted under subsection (a).

(2) The period described in this paragraph is the period during which administrative or judicial proceedings are pending regarding the alien's right to enter or remain in the United States.

^{173a} Clause (5) was inserted by § 130003(c)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 2026, Sept. 13, 1994), effective with respect to aliens against whom deportation proceedings are initiated after September 13, 1994, under § 130004(d) of that Act.

(3)¹⁷⁴ Paragraph (1) and section 204(g) shall not apply with respect to a marriage if the alien establishes by clear and convincing evidence to the satisfaction of the Attorney General that the marriage was entered into in good faith and in accordance with the laws of the place where the marriage took place and the marriage was not entered into for the purpose of procuring the alien's entry as an immigrant and no fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) or 214(d) with respect to the alien spouse or alien son or daughter. In accordance with regulations, there shall be only one level of administrative appellate review for each alien under the previous sentence.

(f)¹⁷⁵ The Attorney General may not adjust, under subsection (a), the status of an alien lawfully admitted to the United States for permanent residence on a conditional basis under section 216A.

(g)¹⁷⁶ In applying this section to a special immigrant described in section 101(a)(27)(K), such an immigrant shall be deemed, for purposes of subsection (a), to have been paroled into the United States.

(h)¹⁷⁷ In applying this section to a special immigrant described in section 101(a)(27)(J)—

(1) such an immigrant shall be deemed, for purposes of subsection (a), to have been paroled into the United States; and

(2) in determining the alien's admissibility as an immigrant—

(A) paragraphs (4), (5)(A), and (7)(A) of section 212(a) shall not apply, and

(B) the Attorney General may waive other paragraphs of section 212(a) (other than paragraphs (2)(A), (2)(B), (2)(C) (except for so much of such paragraph as related to a single offense of simple possession of 30 grams or less of marijuana), (3)(A), (3)(B), (3)(C), and ^{177a} (3)(E)) in the case of individual aliens for humanitarian purposes, family unity, or when it is otherwise in the public interest.

The relationship between an alien and the alien's natural parents or prior adoptive parents shall not be considered a factor in making a waiver under paragraph (2)(B). Nothing in this subsection or section 101(a)(27)(J) shall be construed as authorizing an alien to apply for admission or be admitted to the United States in order to obtain special immigrant status described in such section.

¹⁷⁴ Paragraph (3) was added by § 702(a)(2) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5086), effective with respect to marriages entered into at any time.

¹⁷⁵ Subsection (f) was added by § 121(b)(4) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 4994).

¹⁷⁶ Subsection (g) was added by § 2(c)(2) of the Armed Forces Immigration Adjustment Act of 1991 (P.L. 102-110, Oct. 1, 1991, 105 Stat. 556).

¹⁷⁷ Subsection (h) was added by § 302(d)(2)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1744) and was amended by § 219(k) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4317, Oct. 25, 1994).

^{177a} § 219(k) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4317, Oct. 25, 1994) struck "or" and inserted "and".

(i)(1)^{177b} Notwithstanding the provisions of subsections (a) and (c) of this section, an alien physically present in the United States who—

(A) entered the United States without inspection; or

(B) is within one of the classes enumerated in subsection (c) of this section.

may apply to the Attorney General for the adjustment of his or her status to that of an alien lawfully admitted for permanent residence. The Attorney General may accept such application only if the alien remits with such application a sum equalling five times the fee required for the processing of applications under this section as of the date of receipt of the application, but such sum shall not be required from a child under the age of seventeen, or an alien who is the spouse or unmarried child of an individual who obtained temporary or permanent resident status under section 210 or 245A of the Immigration and Nationality Act or section 202 of the Immigration Reform and Control Act of 1986 at any date, who—

(i) as of May 5, 1988, was the unmarried child or spouse of the individual who obtained temporary or permanent resident status under section 210 or 245A of the Immigration and Nationality Act or section 202 of the Immigration Reform and Control Act of 1986;

(ii) entered the United States before May 5, 1988, resided in the United States on May 5, 1988, and is not a lawful permanent resident; and

(iii) applied for benefits under section 301(a) of the Immigration Act of 1990. The sum specified herein shall be in addition to the fee normally required for the processing of an application under this section.

(2) Upon receipt of such an application and the sum hereby required, the Attorney General may adjust the status of the alien to that of an alien lawfully admitted for permanent residence if—

(A) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence; and

(B) an immigrant visa is immediately available to the alien at the time the application is filed.

(3) Sums remitted to the Attorney General pursuant to paragraphs (1) and (2) of this subsection shall be disposed of by the Attorney General as provided in sections 286 (m), (n), and (o) of this title.

(i)(1)^{177c} If, in the opinion of the Attorney General—

(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S)(i) has supplied information described in subclause (I) of such section; and

^{177b} This subsection (i) was added by subsection (b) of § 506 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995 (P.L. 103-317, 108 Stat. 1765, Aug. 26, 1994), effective on October 1, 1994 through September 30, 1997, under subsection (c) of that section. Subsection (d) of that section provides as follows:

(d) The Immigration and Naturalization Service shall conduct full fingerprint identification checks through the Federal Bureau of Investigation for all individuals over sixteen years of age adjusting immigration status in the United States pursuant to this section.

^{177c} This subsection (i) was added by § 130003(c)(1) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 2025, Sept. 13, 1994), effective with respect to aliens against whom deportation proceedings are initiated after September 13, 1994, under § 130004(d) of that Act. This subsection should have been designated as subsection (j).

(B) the provision of such information has substantially contributed to the success of an authorized criminal investigation or the prosecution of an individual described in subclause (III) of that section,

the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under that section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

(2) If, in the sole discretion of the Attorney General—

(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S)(ii) has supplied information described in subclause (I) of such section, and

(B) the provision of such information has substantially contributed to—

(i) the prevention or frustration of an act of terrorism against a United States person or United States property, or

(ii) the success of an authorized criminal investigation of, or the prosecution of, an individual involved in such an act of terrorism, and

(C) the nonimmigrant has received a reward under section 36(a) of the State Department Basic Authorities Act of 1956,

the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under such section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

(3) Upon the approval of adjustment of status under paragraphs (1) or (2), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(4) for the fiscal year then current.

ADJUSTMENT OF STATUS OF CERTAIN ENTRANTS BEFORE JANUARY 1, 1982, TO THAT OF PERSON ADMITTED FOR LAWFUL RESIDENCE

SEC. 245A. [8 U.S.C. 1255a] (a) TEMPORARY RESIDENT STATUS.—The Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for temporary residence if the alien meets the following requirements:

(1) TIMELY APPLICATION.—

(A) DURING APPLICATION PERIOD.—Except as provided in subparagraph (B), the alien must apply for such adjustment during the 12-month period beginning on a date (not later than 180 days after the date of enactment of this section) designated by the Attorney General.

(B) APPLICATION WITHIN 30 DAYS OF SHOW-CAUSE ORDER.—An alien who, at any time during the first 11 months of the 12-month period described in subparagraph (A), is the subject of an order to show cause issued under section 242, must make application under this section not later than the end of the 30-day period beginning either or

the first day of such 12-month period or on the date of the issuance of such order, whichever day is later.

(C) INFORMATION INCLUDED IN APPLICATION.—Each application under this subsection shall contain such information as the Attorney General may require, including information on living relatives of the applicant with respect to whom a petition for preference or other status may be filed by the applicant at any later date under section 204(a).

(2) CONTINUOUS UNLAWFUL RESIDENCE SINCE 1982.—

(A) IN GENERAL.—The alien must establish that he entered the United States before January 1, 1982, and that he has resided continuously in the United States in an unlawful status since such date and through the date the application is filed under this subsection.

(B) NONIMMIGRANTS.—In the case of an alien who entered the United States as a nonimmigrant before January 1, 1982, the alien must establish that the alien's period of authorized stay as a nonimmigrant expired before such date through the passage of time or the alien's unlawful status was known to the Government as of such date.

(C) EXCHANGE VISITORS.—If the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien must establish that the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof.

(3) CONTINUOUS PHYSICAL PRESENCE SINCE ENACTMENT.—

(A) IN GENERAL.—The alien must establish that the alien has been continuously physically present in the United States since the date of the enactment of this section.

(B) TREATMENT OF BRIEF, CASUAL, AND INNOCENT ABSENCES.—An alien shall not be considered to have failed to maintain continuous physical presence in the United States for purposes of subparagraph (A) by virtue of brief, casual, and innocent absences from the United States.

(C) ADMISSIONS.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for adjustment of status under this subsection.

(4) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he—

(A) is admissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2),

(B) has not been convicted of any felony or of three or more misdemeanors committed in the United States,

(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion, and

(D) is registered or registering under the Military Selective Service Act, if the alien is required to be so registered under that Act.

For purposes of this subsection, an alien in the status of a Cuban and Haitian entrant described in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422 shall be considered to have entered the United States and to be in an unlawful status in the United States.

(b) SUBSEQUENT ADJUSTMENT TO PERMANENT RESIDENCE AND NATURE OF TEMPORARY RESIDENT STATUS.—

(1) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall adjust the status of any alien provided lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if the alien meets the following requirements:

(A) TIMELY APPLICATION AFTER ONE YEAR'S RESIDENCE.—The alien must apply for such adjustment during the 2-year period¹⁷⁸ beginning with the nineteenth month that begins after the date the alien was granted such temporary resident status.

(B) CONTINUOUS RESIDENCE.—

(i) IN GENERAL.—The alien must establish that he has continuously resided in the United States since the date the alien was granted such temporary resident status.

(ii) TREATMENT OF CERTAIN ABSENCES.—An alien shall not be considered to have lost the continuous residence referred to in clause (i) by reason of an absence from the United States permitted under paragraph (3)(A).

(C) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he—

(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2), and

(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States.

(D) BASIC CITIZENSHIP SKILLS.—

(i) IN GENERAL.—The alien must demonstrate that he either—

(I) meets the requirements of section 312(a) (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States), or

(II) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States.

(ii) EXCEPTION FOR ELDERLY OR DEVELOPMENTALLY DISABLED INDIVIDUALS.—The Attorney General may, in his discretion, waive all or part of the requirements of

¹⁷⁸ § 703(a)(1) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5086) substituted a 2-year application period for a one-year application period.

clause (i) in the case of an alien who is 65 years of age or older or who is developmentally disabled.

(iii) RELATION TO NATURALIZATION EXAMINATION.—In accordance with regulations of the Attorney General, an alien who has demonstrated under clause (i)(I) that the alien meets the requirements of section 312(a) may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

(2) TERMINATION OF TEMPORARY RESIDENCE.—The Attorney General shall provide for termination of temporary resident status granted an alien under subsection (a)—

(A) if it appears to the Attorney General that the alien was in fact not eligible for such status;

(B) if the alien commits an act that (i) makes the alien inadmissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2), or (ii) is convicted of any felony or three or more misdemeanors committed in the United States; or

(C) at the end of the 43rd¹⁷⁹ month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (1) and such application has not been denied.

(3) AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.—During the period an alien is in lawful temporary resident status granted under subsection (a)—

(A) AUTHORIZATION OF TRAVEL ABROAD.—The Attorney General shall, in accordance with regulations, permit the alien to return to the United States after such brief and casual trips abroad as reflect an intention on the part of the alien to adjust to lawful permanent resident status under paragraph (1) and after brief temporary trips abroad occasioned by a family obligation involving an occurrence such as the illness or death of a close relative or other family need.

(B) AUTHORIZATION OF EMPLOYMENT.—The Attorney General shall grant the alien authorization to engage in employment in the United States and provide to that alien an “employment authorized” endorsement or other appropriate work permit.

(c) APPLICATIONS FOR ADJUSTMENT OF STATUS.—

(1) TO WHOM MAY BE MADE.—The Attorney General shall provide that applications for adjustment of status under subsection (a) may be filed—

(A) with the Attorney General, or

(B) with a qualified designated entity, but only if the applicant consents to the forwarding of the application to the Attorney General.

¹⁷⁹ § 703(a)(2) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5086) substituted the 43rd month for the 31st month.

As used in this section, the term "qualified designated entity" means an organization or person designated under paragraph (2).

(2) DESIGNATION OF QUALIFIED ENTITIES TO RECEIVE APPLICATIONS.—For purposes of assisting in the program of legalization provided under this section, the Attorney General—

(A) shall designate qualified voluntary organizations and other qualified State, local, and community organizations, and

(B) may designate such other persons as the Attorney General determines are qualified and have substantial experience, demonstrated competence, and traditional long-term involvement in the preparation and submittal of applications for adjustment of status under section 209 or 245, Public Law 89-732, or Public Law 95-145.

(3) TREATMENT OF APPLICATIONS BY DESIGNATED ENTITIES.—Each qualified designated entity must agree to forward to the Attorney General applications filed with it in accordance with paragraph (1)(B) but not to forward to the Attorney General applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Attorney General.

(4) LIMITATION ON ACCESS TO INFORMATION.—Files and records of qualified designated entities relating to an alien seeking assistance or information with respect to filing an application under this section are confidential and the Attorney General and the Service shall not have access to such files or records relating to an alien without the consent of the alien.

(5) CONFIDENTIALITY OF INFORMATION.—Neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

(A) use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application or for enforcement of paragraph (6) or for the preparation of reports to Congress under section 404 of the Immigration Reform and Control Act of 1986,

(B) make any publication whereby the information furnished by any particular individual can be identified, or

(C) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications; except that the Attorney General may provide, in the Attorney General's discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code. Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

(6) **PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.**—Whoever files an application for adjustment of status under this section and knowingly and willfully falsifies, misrepresents, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

(7) **APPLICATION FEES.**—

(A) **FEE SCHEDULE.**—The Attorney General shall provide for a schedule of fees to be charged for the filing of applications for adjustment under subsection (a) or (b)(1). The Attorney General shall provide for an additional fee for filing an application for adjustment under subsection (b)(1) after the end of the first year of the 2-year period described in subsection (b)(1)(A).¹⁸⁰

(B) **USE OF FEES.**—The Attorney General shall deposit payments received under this paragraph in a separate account and amounts in such account shall be available, without fiscal year limitation, to cover administrative and other expenses incurred in connection with the review of applications filed under this section.

(C)¹⁸¹ **IMMIGRATION-RELATED UNFAIR EMPLOYMENT PRACTICES.**—Not to exceed \$3,000,000 of the unobligated balances remaining in the account established in subparagraph (B) shall be available in fiscal year 1992 and each fiscal year thereafter for grants, contracts, and cooperative agreements to community-based organizations for outreach programs, to be administered by the Office of Special Counsel for Immigration-Related Unfair Employment Practices: *Provided*, That such amounts shall be in addition to any funds appropriated to the Office of Special Counsel for such purposes: *Provided further*, That none of the funds made available by this section shall be used by the Office of Special Counsel to establish regional offices.

(d) **WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR EXCLUSION.**—

(1) **NUMERICAL LIMITATIONS DO NOT APPLY.**—The numerical limitations of sections 201 and 202 shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) **WAIVER OF GROUNDS FOR EXCLUSION.**—In the determination of an alien's admissibility under subsections (a)(4)(A), (b)(1)(C)(i), and (b)(2)(B)—

¹⁸⁰ The last sentence was added by § 703(b) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5086).

¹⁸¹ Public Law 102-140, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992 (Oct. 28, 1991; 105 Stat. 785), under the heading 'Legal Activities' inserted a new "subsection" after "subsection (B)" of section 245A(c)(7) of the Immigration and Nationality Act "of 1952".

(A) **GROUND OF EXCLUSION NOT APPLICABLE.**—The provisions of paragraphs (5) and (7)(A)¹⁸² of section 212(a) shall not apply.

(B) **WAIVER OF OTHER GROUNDS.**—

(i) **IN GENERAL.**—Except as provided in clause (ii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(ii)¹⁸³ **GROUND THAT MAY NOT BE WAIVED.**—The following provisions of section 212(a) may not be waived by the Attorney General under clause (i):

(I) Paragraphs (2)(A) and (2)(B) (relating to criminals).

(II) Paragraph (2)(C) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

(III)¹⁸⁴ Paragraph (3) (relating to security and related grounds).

(IV) Paragraph (4) (relating to aliens likely to become public charges) insofar as it relates to an application for adjustment to permanent residence.

Subclause (IV) (prohibiting the waiver of section 212(a)(4)) shall not apply to an alien who is or was an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act).

(iii) **SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.**—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(4)¹⁸⁵ if the alien demonstrates a history of employment in the United States evidencing self-support without receipt of public cash assistance.

(C) **MEDICAL EXAMINATION.**—The alien shall be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

(e) **TEMPORARY STAY OF DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.**—

(1) **BEFORE APPLICATION PERIOD.**—The Attorney General shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(A) and who can establish a prima facie case of eligibility to have his status adjusted under subsection (a) (but

¹⁸² § 603(a)(13)(A) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5083) substituted a reference to paragraphs (5) and (7)(A) for a reference to paragraphs (14), (20), (21), (25), and (32).

¹⁸³ § 603(a)(13) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5083) changed references in this clause to various paragraphs in section 212(a).

¹⁸⁴ Subclause (III) shown was inserted by § 307(l)(6)(D) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1756).

¹⁸⁵ § 603(a)(13)(H) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5083) substituted a reference to section 212(a)(4) for a reference to section 212(a)(15).

for the fact that he may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for adjustment, the alien—

(A) may not be deported, and

(B) shall be granted authorization to engage in employment in the United States and be provided an “employment authorized” endorsement or other appropriate work permit.

(2) DURING APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who presents a prima facie application for adjustment of status under subsection (a) during the application period, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be deported, and

(B) shall be granted authorization to engage in employment in the United States and be provided an “employment authorized” endorsement or other appropriate work permit.

(f) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review of a determination respecting an application for adjustment of status under this section except in accordance with this subsection.

(2) NO REVIEW FOR LATE FILINGS.—No denial of adjustment of status under this section based on a late filing of an application for such adjustment may be reviewed by a court of the United States or of any State or reviewed in any administrative proceeding of the United States Government.

(3) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of a determination described in paragraph (1).

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(4) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF DEPORTATION.—There shall be judicial review of such a denial only in the judicial review of an order of deportation under section 106.

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(g) IMPLEMENTATION OF SECTION.—

(1) REGULATIONS.—The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and of the Senate, shall prescribe—

(A) regulations establishing a definition of the term “resided continuously”, as used in this section, and the evidence needed to establish that an alien has resided continuously in the United States for purposes of this section, and

(B) such other regulations as may be necessary to carry out this section.

(2) CONSIDERATIONS.—In prescribing regulations described in paragraph (1)(A)—

(A) PERIODS OF CONTINUOUS RESIDENCE.—The Attorney General shall specify individual periods, and aggregate periods, of absence from the United States which will be considered to break a period of continuous residence in the United States and shall take into account absences due merely to brief and casual trips abroad.

(B) ABSENCES CAUSED BY DEPORTATION OR ADVANCED PAROLE.—The Attorney General shall provide that—

(i) an alien shall not be considered to have resided continuously in the United States, if, during any period for which continuous residence is required, the alien was outside the United States as a result of a departure under an order of deportation, and

(ii) any period of time during which an alien is outside the United States pursuant to the advance parole procedures of the Service shall not be considered as part of the period of time during which an alien is outside the United States for purposes of this section.

(C) WAIVERS OF CERTAIN ABSENCES.—The Attorney General may provide for a waiver, in the discretion of the Attorney General, of the periods specified under subparagraph (A) in the case of an absence from the United States due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

(D) USE OF CERTAIN DOCUMENTATION.—The Attorney General shall require that—

(i) continuous residence and physical presence in the United States must be established through documents, together with independent corroboration of the information contained in such documents, and

(ii) the documents provided under clause (i) be employment-related if employment-related documents with respect to the alien are available to the applicant.

(3) INTERIM FINAL REGULATIONS.—Regulations prescribed under this section may be prescribed to take effect on an interim final basis if the Attorney General determines that this is necessary in order to implement this section in a timely manner.

(h) TEMPORARY DISQUALIFICATION OF NEWLY LEGALIZED ALIENS FROM RECEIVING CERTAIN PUBLIC WELFARE ASSISTANCE.—

(1) **IN GENERAL.**—During the five-year period beginning on the date an alien was granted lawful temporary resident status under subsection (a), and notwithstanding any other provision of law—

(A) except as provided in paragraphs (2) and (3), the alien is not eligible for—

(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government (but in any event including the program of aid to families with dependent children under part A of title IV of the Social Security Act),

(ii) medical assistance under a State plan approved under title XIX of the Social Security Act, and

(iii) assistance under the Food Stamp Act of 1977;

and

(B) a State or political subdivision therein may, to the extent consistent with subparagraph (A) and paragraphs (2) and (3), provide that the alien is not eligible for the programs of financial assistance or for medical assistance described in subparagraph (A)(ii) furnished under the law of that State or political subdivision.

Unless otherwise specifically provided by this section or other law, an alien in temporary lawful residence status granted under subsection (a) shall not be considered (for purposes of any law of a State or political subdivision providing for a program of financial assistance) to be permanently residing in the United States under color of law.

(2) **EXCEPTIONS.**—Paragraph (1) shall not apply—

(A) to a Cuban and Haitian entrant (as defined in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422, as in effect on April 1, 1983), or

(B) in the case of assistance (other than aid to families with dependent children) which is furnished to an alien who is an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act).

(3) **RESTRICTED MEDICAID BENEFITS.**—

(A) **CLARIFICATION OF ENTITLEMENT.**—Subject to the restrictions under subparagraph (B), for the purpose of providing aliens with eligibility to receive medical assistance—

(i) paragraph (1) shall not apply,

(ii) aliens who would be eligible for medical assistance but for the provisions of paragraph (1) shall be deemed, for purposes of title XIX of the Social Security Act, to be so eligible, and

(iii) aliens lawfully admitted for temporary residence under this section, such status not having changed, shall be considered to be permanently residing in the United States under color of law.

(B) **RESTRICTION OF BENEFITS.**—

(i) **LIMITATION TO EMERGENCY SERVICES AND SERVICES FOR PREGNANT WOMEN.**—Notwithstanding any provision of title XIX of the Social Security Act (including subparagraphs (B) and (C) of section 1902(a)(10) of such Act), aliens who, but for subparagraph (A), would be ineligible for medical assistance under paragraph (1), are only eligible for such assistance with respect to—

(I) emergency services (as defined for purposes of section 1916(a)(2)(D) of the Social Security Act), and

(II) services described in section 1916(a)(2)(B) of such Act (relating to service for pregnant women).

(ii) **NO RESTRICTION FOR EXEMPT ALIENS AND CHILDREN.**—The restrictions of clause (i) shall not apply to aliens who are described in paragraph (2) or who are under 18 years of age.

(C) **DEFINITION OF MEDICAL ASSISTANCE.**—In this paragraph, the term “medical assistance” refers to medical assistance under a State plan approved under title XIX of the Social Security Act.

(4) **TREATMENT OF CERTAIN PROGRAMS.**—Assistance furnished under any of the following provisions of law shall not be construed to be financial assistance described in paragraph (1)(A)(i):

(A) The National School Lunch Act.

(B) The Child Nutrition Act of 1966.

(C) The Vocational Education Act of 1963.

(D) Title I of the Elementary and Secondary Education Act of 1965.^{185a}

(E) The Headstart-Follow Through Act.

(F) The Job Training Partnership Act.

(G) Title IV of the Higher Education Act of 1965.

(H) The Public Health Service Act.

(I) Titles V, XVI, and XX, and parts B, D, and E of title IV, of the Social Security Act (and titles I, X, XIV, and XVI of such Act as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972).

(5) **ADJUSTMENT NOT AFFECTING FASCELL-STONE BENEFITS.**—For the purpose of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-122), assistance shall be continued under such section with respect to an alien without regard to the alien’s adjustment of status under this section.

(i) **DISSEMINATION OF INFORMATION ON LEGALIZATION PROGRAM.**—Beginning not later than the date designated by the Attorney General under subsection (a)(1)(A), the Attorney General, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.

^{185a} Subparagraph (D) was rewritten by § 394(g) of Improving America’s Schools Act of 1994 (P.L. 103-382, Oct. 20, 1994, 108 Stat. 4028).

RESCISSION OF ADJUSTMENT OF STATUS

SEC. 246. [8 U.S.C. 1256] (a) ^{185b} If, at any time within five years after the status of a person has been otherwise adjusted under the provisions of section 245 or 249 of this Act or any other provision of law to that of an alien lawfully admitted for permanent residence, it shall appear to the satisfaction of the Attorney General that the person was not in fact eligible for such adjustment of status, the Attorney General shall rescind the action taken granting an adjustment of status to such person and cancelling deportation in the case of such person if that occurred and the person shall thereupon be subject to all provisions of this Act to the same extent as if the adjustment of status had not been made.

(b) Any person who has become a naturalized citizen of the United States upon the basis of a record of a lawful admission for permanent residence, created as a result of an adjustment of status for which such person was not in fact eligible, and which is subsequently rescinded under subsection (a) of this section, shall be subject to the provisions of section 340 of this Act as a person whose naturalization was procured by concealment of a material fact or by willful misrepresentation.

ADJUSTMENT OF STATUS OF CERTAIN RESIDENT ALIENS TO
NONIMMIGRANT STATUS

SEC. 247. [8 U.S.C. 1257] (a) The status of an alien lawfully admitted for permanent residence shall be adjusted by the Attorney General, under such regulations as he may prescribe, to that of a nonimmigrant under paragraph (15)(A), (15)(E), or (15)(G) of section 101(a), if such alien had at the time of entry or subsequently acquires an occupational status which would, if he were seeking admission to the United States, entitle him to a nonimmigrant status under such sections. As of the date of the Attorney General's order making such adjustment of status, the Attorney General shall cancel the record of the alien's admission for permanent residence, and the immigrant status of such alien shall thereby be terminated.

(b) The adjustment of status required by subsection (a) shall not be applicable in the case of any alien who requests that he be permitted to retain his status as an immigrant and who, in such form as the Attorney General may require, executes and files with the Attorney General a written waiver of all rights, privileges, exemptions, and immunities under any law or any executive order which would otherwise accrue to him because of the acquisition of an occupational status entitling him to a nonimmigrant status under paragraph (15)(A), (15)(E), or (15)(G) of section 101(a).

^{185b} The previous first 3 sentences of this subsection were stricken by § 219(m) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4317, Oct. 25, 1994), effective as of October 25, 1994.

CHANGE OF NONIMMIGRANT CLASSIFICATION

SEC. 248.¹⁸⁶ [8 U.S.C. 1258] The Attorney General may, under such conditions as he may prescribe, authorize a change from any nonimmigrant classification to any other nonimmigrant classification in the case of any alien lawfully admitted to the United States as a nonimmigrant who is continuing to maintain that status, except in the case of—

(1) an alien classified as a nonimmigrant under subparagraph (C), (D), (K), or (S)^{186a} of section 101(a)(15),

(2) an alien classified as a nonimmigrant under subparagraph (J) of section 101(a)(15) who came to the United States or acquired such classification in order to receive graduate medical education or training,

(3) an alien (other than an alien described in paragraph (2)) classified as a nonimmigrant under subparagraph (J) of section 101(a)(15) who is subject to the two-year foreign residence requirement of section 212(e) and has not received a waiver thereof, unless such alien applies to have the alien's classification changed from classification under subparagraph (J) of section 101(a)(15) to a classification under subparagraph (A) or (G) of such section, and

(4) an alien admitted as a nonimmigrant visitor without a visa under section 212(l) or section 217.

RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JULY 1, 1924 OR JANUARY 1, 1972

SEC. 249. [8 U.S.C. 1259] A record of lawful admission for permanent residence may, in the discretion of the Attorney General and under such regulations as he may prescribe, be made in the case of any alien, as of the date of the approval of his application or, if entry occurred prior to July 1, 1924, as of the date of such entry, if no such record is otherwise available and such alien shall satisfy the Attorney General that he is not inadmissible under section 212(a)(3)(E)¹⁸⁷ or under section 212(a) insofar as it relates to criminals, procurers and other immoral persons, subversives, violators of the narcotic laws or smugglers of aliens, and he establishes that he—

(a) entered the United States prior to January 1, 1972;

(b) has had his residence in the United States continuously since such entry;

(c) is a person of good moral character; and

(d) is not ineligible to citizenship.

¹⁸⁶ Section 238(c) limits the Attorney General's authority to adjust the status of certain aliens in continuous and immediate transit through the United States (presumably without a visa—see § 212(d)(4)).

^{186a} § 130003(b)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 2025, Sept. 13, 1994) inserted "or (S)" in section 248(1) of the Immigration and "Naturalization" Act (8 U.S.C. 1258(1)); amendment executed to reflect probable intent.

¹⁸⁷ The phrase "under section 212(a)(33) or" was amended by § 603(a)(14) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5083) to refer to section 212(a)(3)(E).

REMOVAL OF ALIENS WHO HAVE FALLEN INTO DISTRESS

SEC. 250. [8 U.S.C. 1260] The Attorney General may remove from the United States any alien who falls into distress or who needs public aid from causes arising subsequent to his entry, and is desirous of being so removed, to the native country of such alien, or to the country from which he came, or to the country of which he is a citizen or subject, or to any other country to which he wishes to go and which will receive him, at the expense of the appropriation for the enforcement of this Act. Any alien so removed shall be ineligible to apply for or receive a visa or other documentation for readmission, or to apply for admission to the United States except with the prior approval of the Attorney General.

CHAPTER 6—SPECIAL PROVISIONS RELATING TO ALIEN CREWMEN

LISTS OF ALIEN CREWMEN; REPORTS OF ILLEGAL LANDINGS

SEC. 251. [8 U.S.C. 1281] (a) Upon arrival of any vessel or aircraft in the United States from any place outside the United States it shall be the duty of the owner, agent, consignee, master, or commanding officer thereof to deliver to an immigration officer at the port of arrival (1) a complete, true, and correct list containing the names of all aliens employed on such vessel or aircraft, the positions they respectively hold in the crew of the vessel or aircraft, when and where they were respectively shipped or engaged, and those to be paid off or discharged in the port of arrival; or (2) in the discretion of the Attorney General, such a list containing so much of such information, or such additional or supplemental information, as the Attorney General shall by regulations prescribe. In the case of a vessel engaged solely in traffic on the Great Lakes, Saint Lawrence River, and connecting waterways, such lists shall be furnished at such times as the Attorney General may require.

(b) It shall be the duty of any owner, agent, consignee, master, or commanding officer of any vessel or aircraft to report to an immigration officer, in writing, as soon as discovered, all cases in which any alien crewman has illegally landed in the United States from the vessel or aircraft, together with a description of such alien and any information likely to lead to his apprehension.

(c) Before the departure of any vessel or aircraft from any port in the United States, it shall be the duty of the owner, agent, consignee, master, or commanding officer thereof, to deliver to an immigration officer at that port (1) a list containing the names of all alien employees who were not employed thereon at the time of the arrival at that port but who will leave such port thereon at the time of the departure of such vessel or aircraft and the names of those, if any, who have been paid off or discharged, and of those, if any, who have deserted or landed at that port, or (2) in the discretion of the Attorney General, such a list containing so much of such information, or such additional or supplemental information, as the Attorney General shall by regulations prescribe. In the case of a vessel engaged solely in traffic on the Great Lakes, Saint Lawrence River, and connecting waterways, such lists shall be furnished at such times as the Attorney General may require.

(d)¹⁸⁸ In case any owner, agent, consignee, master, or commanding officer shall fail to deliver complete, true, and correct lists or reports of aliens, or to report cases of desertion or landing, as required by subsections (a), (b), and (c), such owner, agent, consignee, master, or commanding officer shall, if required by the Attorney General, pay to the Commissioner the sum of \$200 for each alien concerning whom such lists are not delivered or such reports are not made as required in the preceding subsections. In the case that any owner, agent, consignee, master, or commanding officer of a vessel shall secure services of an alien crewman described in section 101(a)(15)(D)(i) to perform longshore work not included in the normal operation and service on board the vessel under section 258, the owner, agent, consignee, master, or commanding officer shall pay to the Commissioner the sum of \$5,000, and such fine shall be a lien against the vessel. No such vessel or aircraft shall be granted clearance from any port at which it arrives pending the determination of the question of the liability to the payment of such fine, and if such fine is imposed, while it remains unpaid. No such fine shall be remitted or refunded. Clearance may be granted prior to the determination of such question upon deposit of a bond or a sum sufficient to cover such fine.

(e) The Attorney General is authorized to prescribe by regulations the circumstances under which a vessel or aircraft shall be deemed to be arriving in, or departing from the United States or any port thereof within the meaning of any provision of this chapter.

CONDITIONAL PERMITS TO LAND TEMPORARILY

SEC. 252. [8 U.S.C. 1282] (a) No alien crewman shall be permitted to land temporarily in the United States except as provided in this section, section 212(d)(3), section 212(d)(5), and section 253. If an immigration officer finds upon examination that an alien crewman is a nonimmigrant under paragraph (15)(D) of section 101(a) and is otherwise admissible and has agreed to accept such permit, he may, in his discretion, grant the crewman a conditional permit to land temporarily pursuant to regulations prescribed by the Attorney General, subject to revocation in subsequent proceedings as provided in subsection (b), and for a period of time, in any event, not to exceed—

(1) the period of time (not exceeding twenty-nine days) during which the vessel or aircraft on which he arrived remains in port, if the immigration officer is satisfied that the crewman intends to depart on the vessel or aircraft on which he arrived; or

(2) twenty-nine days, if the immigration officer is satisfied that the crewman intends to depart, within the period for which he is permitted to land, on a vessel or aircraft other than the one on which he arrived.

(b) Pursuant to regulations prescribed by the Attorney General, any immigration officer may, in his discretion, if he deter-

¹⁸⁸ This subsection was amended by § 203(b) of the Immigration Act of 1990 (104 Stat. 5018), to increase the penalty from \$10 to \$200, and to provide for the special rule for alien crewmen specified in the second sentence.

mines that an alien is not a bona fide crewman, or does not intend to depart on the vessel or aircraft which brought him, revoke the conditional permit to land which was granted such crewman under the provisions of subsection (a)(1), take such crewman into custody, and require the master or commanding officer of the vessel or aircraft on which the crewman arrived to receive and detain him on board such vessel or aircraft, if practicable, and such crewman shall be deported from the United States at the expense of the transportation line which brought him to the United States. Until such alien is so deported, any expenses of his detention shall be borne by such transportation company. Nothing in this section shall be construed to require the procedure prescribed in section 242 of this Act to cases falling within the provisions of this subsection.

(c) Any alien crewman who willfully remains in the United States in excess of the number of days allowed in any conditional permit issued under subsection (a) shall be fined under title 18, United States Code, or imprisoned not more than 6 months, or both.

HOSPITAL TREATMENT OF ALIEN CREWMEN AFFLICTED WITH CERTAIN DISEASES

SEC. 253. [8 U.S.C. 1283] An alien crewman, including an alien crewman ineligible for a conditional permit to land under section 252(a), who is found on arrival in a port of the United States to be afflicted with any of the disabilities or diseases mentioned in section 255, shall be placed in a hospital designated by the immigration officer in charge at the port of arrival and treated, all expenses connected therewith, including burial in the event of death, to be borne by the owner, agent, consignee, commanding officer, or master of the vessel or aircraft, and not to be deducted from the crewman's wages. No such vessel or aircraft shall be granted clearance until such expenses are paid, or their payment appropriately guaranteed, and the collector of customs is so notified by the immigration officer in charge. An alien crewman suspected of being afflicted with any such disability or disease may be removed from the vessel or aircraft on which he arrived to an immigration station, or other appropriate place, for such observation as will enable the examining surgeons to determine definitely whether or not he is so afflicted, all expenses connected therewith to be borne in the manner hereinbefore prescribed. In cases in which it appears to the satisfaction of the immigration officer in charge that it will not be possible within a reasonable time to effect a cure, the return of the alien crewman shall be enforced on, or at the expense of, the transportation line on which he came, upon such conditions as the Attorney General shall prescribe, to insure that the alien shall be properly cared for and protected, and that the spread of contagion shall be guarded against.

CONTROL OF ALIEN CREWMEN

SEC. 254. [8 U.S.C. 1284] (a) The owner, agent, consignee, charterer, master, or commanding officer of any vessel or aircraft arriving in the United States from any place outside thereof who

fails (1) to detain on board the vessel, or in the case of an aircraft to detain at a place specified by an immigration officer at the expense of the airline, any alien crewman employed thereon until an immigration officer has completely inspected such alien crewman, including a physical examination by the medical examiner, or (2) to detain any alien crewman on board the vessel, or in the case of an aircraft at a place specified by an immigration officer at the expense of the airline, after such inspection unless a conditional permit to land temporarily has been granted such alien crewman under section 252 or unless an alien crewman has been permitted to land temporarily under section 212(d)(5) or 253 for medical or hospital treatment, or (3) to deport such alien crewman if required to do so by an immigration officer, whether such deportation requirement is imposed before or after the crewman is permitted to land temporarily under section 212(d)(5), 252, or 253, shall pay to the Commissioner the sum of \$3,000¹⁹⁰ for each alien crewman in respect of whom any such failure occurs. No such vessel or aircraft shall be granted clearance pending the determination of the liability to the payment of such fine, or while the fine remains unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine, or of a bond with sufficient surety to secure the payment thereof approved by the Commissioner. The Attorney General may, upon application in writing therefor, mitigate such penalty to not less than \$500¹⁹⁰ for each alien crewman in respect of whom such failure occurs, upon such terms as he shall think proper.

(b) Except as may be otherwise prescribed by regulations issued by the Attorney General, proof that an alien crewman did not appear upon the outgoing manifest of the vessel or aircraft on which he arrived in the United States from any place outside thereof, or that he was reported by the master or commanding officer of such vessel or aircraft as a deserter, shall be prima facie evidence of a failure to detain or deport such alien crewman.

(c) If the Attorney General finds that deportation of an alien crewman under this section on the vessel or aircraft on which he arrived is impracticable or impossible, or would cause undue hardship to such alien crewman, he may cause the alien crewman to be deported from the port of arrival or any other port on another vessel or aircraft of the same transportation line, unless the Attorney General finds this to be impracticable. All expenses incurred in connection with such deportation, including expenses incurred in transferring an alien crewman from one place in the United States to another under such conditions and safeguards as the Attorney General shall impose, shall be paid by the owner or owners of the vessel or aircraft on which the alien arrived in the United States. The vessel or aircraft on which the alien arrived shall not be granted clearance until such expenses have been paid or their payment guaranteed to the satisfaction of the Attorney General. An alien crewman who is transferred within the United States in accordance

¹⁹⁰ § 543(a)(4) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5058) substituted payment of \$3,000 to the Commissioner for payment of \$1,000 to the collector of customs and raised the minimum mitigating penalty from \$200 to \$500, effective for actions taken after November 29, 1990. There is no footnote #189.

with this subsection shall not be regarded as having been landed in the United States.

EMPLOYMENT ON PASSENGER VESSELS OF ALIENS AFFLICTED WITH
CERTAIN DISABILITIES

SEC. 255. [8 U.S.C. 1285] It shall be unlawful for any vessel or aircraft carrying passengers between a port of the United States and a port outside thereof to have employed on board upon arrival in the United States any alien afflicted with feeble-mindedness, insanity, epilepsy, tuberculosis in any form, leprosy, or any dangerous contagious disease. If it appears to the satisfaction of the Attorney General, from an examination made by a medical officer of the United States Public Health Service, and is so certified by such officer, that any such alien was so afflicted at the time he was shipped or engaged and taken on board such vessel or aircraft and that the existence of such affliction might have been detected by means of a competent medical examination at such time, the owner, commanding officer, agent, consignee, or master thereof shall pay for each alien so afflicted to the Commissioner the sum of \$1,000.¹⁹¹ No vessel or aircraft shall be granted clearance pending the determination of the question of the liability to the payment of such sums, or while such sums remain unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of an amount sufficient to cover such sums or of a bond approved by the Commissioner with sufficient surety to secure the payment thereof. Any such fine may, in the discretion of the Attorney General, be mitigated or remitted.

DISCHARGE OF ALIEN CREWMEN

SEC. 256. [8 U.S.C. 1286] It shall be unlawful for any person, including the owner, agent, consignee, charterer, master, or commanding officer of any vessel or aircraft, to pay off or discharge any alien crewman, except an alien lawfully admitted for permanent residence, employed on board a vessel or aircraft arriving in the United States without first having obtained the consent of the Attorney General. If it shall appear to the satisfaction of the Attorney General that any alien crewman has been paid off or discharged in the United States in violation of the provisions of this section, such owner, agent, consignee, charterer, master, commanding officer, or other person, shall pay to the Commissioner the sum of \$3,000¹⁹² for each such violation. No vessel or aircraft shall be granted clearance pending the determination of the question of the liability to the payment of such sums, or while such sums remain unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of an amount sufficient to cover such sums, or of a bond approved by the Commissioner with sufficient surety to secure the payment thereof. Such fine may, in the

¹⁹¹ § 543(a)(5) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5058) substituted payment of \$1,000 to the Commissioner for payment of \$50 to the collector of customs, effective for actions taken after November 29, 1990.

¹⁹² § 543(a)(6) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5058) substituted payment of \$3,000 to the Commissioner for payment of \$1,000 to the collector of customs and increased the minimum mitigated fine from \$500 to \$1,500, effective for actions taken after November 29, 1990.

discretion of the Attorney General, be mitigated to not less than \$1,500¹⁹² for each violation, upon such terms as he shall think proper.

BRINGING ALIEN CREWMEN INTO UNITED STATES WITH INTENT TO
EVADE IMMIGRATION LAWS

SEC. 257. [8 U.S.C. 1287] Any person, including the owner, agent, consignee, master, or commanding officer of any vessel or aircraft arriving in the United States from any place outside thereof, who shall knowingly sign on the vessel's articles, or bring to the United States as one of the crew of such vessel or aircraft, any alien, with intent to permit or assist such alien to enter or land in the United States in violation of law, or who shall falsely and knowingly represent to a consular officer at the time of application for visa, or to the immigration officer at the port of arrival in the United States, that such alien is a bona fide member of the crew employed in any capacity regularly required for normal operation and services aboard such vessel or aircraft, shall be liable to a penalty not exceeding \$10,000¹⁹³ for each such violation, for which sum such vessel or aircraft shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN
CREWMEN¹⁹⁴

SEC. 258. [8 U.S.C. 1288] (a) IN GENERAL.—For purposes of section 101(a)(15)(D)(i), the term “normal operation and service on board a vessel” does not include any activity that is longshore work (as defined in subsection (b)), except as provided under subsection (c), (d), or (e).

(b) LONGSHORE WORK DEFINED.—

(1) IN GENERAL.—In this section, except as provided in paragraph (2), the term “longshore work” means any activity relating to the loading or unloading of cargo, the operation of cargo-related equipment (whether or not integral to the vessel), and the handling of mooring lines on the dock when the vessel is made fast or let go, in the United States or the coastal waters thereof.

(2) EXCEPTION FOR SAFETY AND ENVIRONMENTAL PROTECTION.—The term “longshore work” does not include the loading or unloading of any cargo for which the Secretary of Transportation has, under the authority contained in chapter 37 of title 46, United States Code (relating to Carriage of Liquid Bulk Dangerous Cargoes), section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), section 4106 of the Oil Pollution Act of 1990, or section 105 or 106 of the Hazardous Mate-

¹⁹³ § 543(a)(7) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5058) increased the maximum penalty from \$5,000 to \$10,000, effective for actions taken after November 29, 1990.

¹⁹⁴ Section 258 was added by § 203(a)(1) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5015), applicable to services performed on or after May 28, 1991.

rials Transportation Act (49 U.S.C. App. 1804, 1805)^{194a} prescribed regulations which govern—

(A) the handling or stowage of such cargo,

(B) the manning of vessels and the duties, qualifications, and training of the officers and crew of vessels carrying such cargo, and

(C) the reduction or elimination of discharge during ballasting, tank cleaning, handling of such cargo.

(3) CONSTRUCTION.—Nothing in this section shall be construed as broadening, limiting, or otherwise modifying the meaning or scope of longshore work for purposes of any other law, collective bargaining agreement, or international agreement.

(c) PREVAILING PRACTICE EXCEPTION.—(1)^{194b} Subsection (a) shall not apply to a particular activity of longshore work in and about a local port if—

(A)(i) there is in effect in the local port one or more collective bargaining agreements each covering at least 30 percent of the number of individuals employed in performing longshore work and (ii) each such agreement (covering such percentage of longshore workers) permits the activity to be performed by alien crewmen under the terms of such agreement; or

(B) there is no collective bargaining agreement in effect in the local port covering at least 30 percent of the number of individuals employed in performing longshore work, and an employer of alien crewmen (or the employer's designated agent or representative) has filed with the Secretary of Labor at least 14 days before the date of performance of the activity (or later, if necessary due to an unanticipated emergency, but not later than the date of performance of the activity) an attestation setting forth facts and evidence to show that—

(i) the performance of the activity by alien crewmen is permitted under the prevailing practice of the particular port as of the date of filing of the attestation and that the use of alien crewmen for such activity—

(I) is not during a strike or lockout in the course of a labor dispute, and

(II) is not intended or designed to influence an election of a bargaining representative for workers in the local port; and

(ii) notice of the attestation has been provided by the owner, agent, consignee, master, or commanding officer to the bargaining representative of longshore workers in the local port, or, where there is no such bargaining representative, notice of the attestation has been provided to longshore workers employed at the local port.

^{194a} Pursuant to § 6(b) of Public Law 103-272 (108 Stat. 1378), the reference to "section 105 or 106 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1804, 1805)" is deemed to refer to "section 5103(b), 5104, 5106, 5107, or 5110 of title 49, United States Code".

^{194b} Section 323(c)(2) of the Coast Guard Authorization Act of 1993 (P.L. 103-206, 107 Stat. 2430, Dec. 20, 1993) provides as follows:

(2) Attestations filed pursuant to section 258(c) [of the Immigration and Nationality Act] (8 U.S.C. 1288(c)) with the Secretary of Labor before the date of enactment of this Act [viz., December 20, 1993] shall remain valid until 60 days after the date of issuance of final regulations by the Secretary under this section.

In applying subparagraph (B) in the case of a particular activity of longshore work consisting of the use of an automated self-unloading conveyor belt or vacuum-actuated system on a vessel, the attestation shall be required to be filed only if the Secretary of Labor finds, based on a preponderance of the evidence which may be submitted by any interested party, that the performance of such particular activity is not described in clause (i) of such subparagraph.

(2) Subject to paragraph (4), an attestation under paragraph (1) shall—

(A) expire at the end of the 1-year period beginning on the date of its filing with the Secretary of Labor, and

(B) apply to aliens arriving in the United States during such 1-year period if the owner, agent, consignee, master, or commanding officer states in each list under section 251 that it continues to comply with the conditions in the attestation.

(3) An owner, agent, consignee, master, or commanding officer may meet the requirements under this subsection with respect to more than one alien crewman in a single list.

(4)(A) The Secretary of Labor shall compile and make available for public examination in a timely manner in Washington, D.C., a list identifying owners, agents, consignees, masters, or commanding officers which have filed lists for nonimmigrants described in section 101(a)(15)(D)(i) with respect to whom an attestation under paragraph (1) or subsection (d)(1) is made and, for each such entity, a copy of the entity's attestation under paragraph (1) or subsection (d)(1) (and accompanying documentation) and each such list filed by the entity.

(B)(i) The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting an entity's failure to meet conditions attested to, an entity's misrepresentation of a material fact in an attestation, or, in the case described in the last sentence of paragraph (1), whether the performance of the particular activity is or is not described in paragraph (1)(B)(i).

(ii) Complaints may be filed by any aggrieved person or organization (including bargaining representatives, associations deemed appropriate by the Secretary, and other aggrieved parties as determined under regulations of the Secretary).

(iii) The Secretary shall promptly conduct an investigation under this subparagraph if there is reasonable cause to believe that an entity fails to meet conditions attested to, an entity has misrepresented a material fact in the attestation, or, in the case described in the last sentence of paragraph (1), the performance of the particular activity is not described in paragraph (1)(B)(i).

(C)(i) If the Secretary determines that reasonable cause exists to conduct an investigation with respect to an attestation, a complaining party may request that the activities attested to by the employer cease during the hearing process described in subparagraph (D). If such a request is made, the attesting employer shall be issued notice of such request and shall respond within 14 days to the notice. If the Secretary makes an initial determination that the complaining party's position is supported by a preponderance of the evidence submitted, the Secretary shall require immediately

that the employer cease and desist from such activities until completion of the process described in subparagraph (D).

(ii) If the Secretary determines that reasonable cause exists to conduct an investigation with respect to a matter under the last sentence of paragraph (1), a complaining party may request that the activities of the employer cease during the hearing process described in subparagraph (D) unless the employer files with the Secretary of Labor an attestation under paragraph (1). If such a request is made, the employer shall be issued notice of such request and shall respond within 14 days to the notice. If the Secretary makes an initial determination that the complaining party's position is supported by a preponderance of the evidence submitted, the Secretary shall require immediately that the employer cease and desist from such activities until completion of the process described in subparagraph (D) unless the employer files with the Secretary of Labor an attestation under paragraph (1).

(D) Under the process established under subparagraph (B), the Secretary shall provide, within 180 days after the date a complaint is filed (or later for good cause shown), for a determination as to whether or not a basis exists to make a finding described in subparagraph (E). The Secretary shall provide notice of such determination to the interested parties and an opportunity for a hearing on the complaint within 60 days of the date of the determination.

(E)(i) If the Secretary of Labor finds, after notice and opportunity for a hearing, that an entity has failed to meet a condition attested to or has made a misrepresentation of material fact in the attestation, the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed \$5,000 for each alien crewman performing unauthorized longshore work) as the Secretary determines to be appropriate. Upon receipt of such notice, the Attorney General shall not permit the vessels owned or chartered by such entity to enter any port of the United States during a period of up to 1 year.

(ii) If the Secretary of Labor finds, after notice and opportunity for a hearing, that, in the case described in the last sentence of paragraph (1), the performance of the particular activity is not described in subparagraph (B)(i), the Secretary shall notify the Attorney General of such finding and, thereafter, the attestation described in paragraph (1) shall be required of the employer for the performance of the particular activity.

(F) A finding by the Secretary of Labor under this paragraph that the performance of an activity by alien crewmen is not permitted under the prevailing practice of a local port shall preclude for one year the filing of a subsequent attestation concerning such activity in the port under paragraph (1).

(5)^{194c} Except as provided in paragraph (5) of subsection (d), this subsection shall not apply to longshore work performed in the State of Alaska.

^{194c} Paragraph (5) was added by § 323(b)(3) of the Coast Guard Authorization Act of 1993 (P.L. 103-206, 107 Stat. 2430, Dec. 20, 1993).

(d) ^{194d} STATE OF ALASKA EXCEPTION.—(1) Subsection (a) shall not apply to a particular activity of longshore work at a particular location in the State of Alaska if an employer of alien crewmen has filed an attestation with the Secretary of Labor at least 30 days before the date of the first performance of the activity (or anytime up to 24 hours before the first performance of the activity, upon a showing that the employer could not have reasonably anticipated the need to file an attestation for that location at that time) setting forth facts and evidence to show that—

(A) the employer will make a bona fide request for United States longshore workers who are qualified and available in sufficient numbers to perform the activity at the particular time and location from the parties to whom notice has been provided under clauses (ii) and (iii) of subparagraph (D), except that—

(i) wherever two or more contract stevedoring companies have signed a joint collective bargaining agreement with a single labor organization described in subparagraph (D)(i), the employer may request longshore workers from only one of such contract stevedoring companies, and

(ii) a request for longshore workers to an operator of a private dock may be made only for longshore work to be performed at that dock and only if the operator meets the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932);

(B) the employer will employ all those United States longshore workers made available in response to the request made pursuant to subparagraph (A) who are qualified and available in sufficient numbers and who are needed to perform the longshore activity at the particular time and location;

(C) the use of alien crewmembers for such activity is not intended or designed to influence an election of a bargaining representative for workers in the State of Alaska; and

(D) notice of the attestation has been provided by the employer to—

(i) labor organizations which have been recognized as exclusive bargaining representatives of United States longshore workers within the meaning of the National Labor Relations Act and which make available or intend to make available workers to the particular location where the longshore work is to be performed,

(ii) contract stevedoring companies which employ or intend to employ United States longshore workers at that location, and

^{194d} Subsection (d) was inserted by § 323(a)(2) of the Coast Guard Authorization Act of 1993 (P.L. 103-206, 107 Stat. 2428, Dec. 20, 1993); paragraph (3)(B) was amended by § 219(f) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4317, Oct. 25, 1994). A similar amendment was made by § 8(a)(2) of the Copyright Royalty Tribunal Reform Act of 1993 (P.L. 103-198, 107 Stat. 2313, Dec. 17, 1993), which section was repealed by § 219(gg) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4319, Oct. 25, 1994). Section 323(c) of P.L. 103-206 provides as follows:

(c) IMPLEMENTATION.—(1) The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this section.

(2) Attestations filed pursuant to section 258(c) [of the Immigration and Nationality Act] (8 U.S.C. 1288(c)) with the Secretary of Labor before the date of enactment of this Act [viz., December 20, 1993] shall remain valid until 60 days after the date of issuance of final regulations by the Secretary under this section.

(iii) operators of private docks at which the employer will use longshore workers.

(2)(A) An employer filing an attestation under paragraph (1) who seeks to use alien crewmen to perform longshore work shall be responsible while at the attestation is valid to make bona fide requests for United States longshore workers under paragraph (1)(A) and to employ United States longshore workers, as provided in paragraph (1)(B), before using alien crewmen to perform the activity or activities specified in the attestation, except that an employer shall not be required to request longshore workers from a party if that party has notified the employer in writing that it does not intend to make available United States longshore workers to the location at which the longshore work is to be performed.

(B) If a party that has provided such notice subsequently notifies the employer in writing that it is prepared to make available United States longshore workers who are qualified and available in sufficient numbers to perform the longshore activity to the location at which the longshore work is to be performed, then the employer's obligations to that party under subparagraphs (A) and (B) of paragraph (1) shall begin 60 days following the issuance of such notice.

(3)(A) In no case shall an employer filing an attestation be required—

(i) to hire less than a full work unit of United States longshore workers needed to perform the longshore activity;

(ii) to provide overnight accommodations for the longshore workers while employed; or

(iii) to provide transportation to the place of work, except where—

(I) surface transportation is available;

(II) such transportation may be safely accomplished;

(III) travel time to the vessel does not exceed one-half hour each way; and

(IV) travel distance to the vessel from the point of embarkation does not exceed 5 miles.

(B) In the cases of Wide Bay, Alaska, and Klawock/Craig, Alaska, the travel times and travel distances specified in subclauses (III) and (IV) of subparagraph (A)(iii) shall be extended to 45 minutes and 7½ miles, respectively, unless the party responding to the request for longshore workers agrees to the lesser time and distance limitations specified in those subclauses.

(4) Subject to subparagraphs (A) through (D) of subsection (c)(4), attestations filed under paragraph (1) of this subsection shall—

(A) expire at the end of the 1-year period beginning on the date the employer anticipates the longshore work to begin, as specified in the attestation filed with the Secretary of Labor, and

(B) apply to aliens arriving in the United States during such 1-year period if the owner, agent, consignee, master, or commanding officer states in each list under section 251 that it continues to comply with the conditions in the attestation.

(5)(A) Except as otherwise provided by subparagraph (B), subsection (c)(3) and subparagraphs (A) through (E) of subsection (c)(4) shall apply to attestations filed under this subsection.

(B) The use of alien crewmen to perform longshore work in Alaska consisting of the use of an automated self-unloading conveyor belt or vacuum-actuated system on a vessel shall be governed by the provisions of subsection (c).

(6) For purposes of this subsection—

(A) the term “contract stevedoring companies” means those stevedoring companies licensed to do business in the State of Alaska that meet the requirements of section 32 of the Longshoremen’s and Harbor Workers’ Compensation Act (33 U.S.C. 932);

(B) the term “employer” includes any agent or representative designated by the employer; and

(C) the terms “qualified” and “available in sufficient numbers” shall be defined by reference to industry standards in the State of Alaska, including safety considerations.

(e) RECIPROCITY EXCEPTION.—

(1) IN GENERAL.—Subject to the determination of the Secretary of State pursuant to paragraph (2), the Attorney General shall permit an alien crewman to perform an activity constituting longshore work if—

(A) the vessel is registered in a country that by law, regulation, or in practice does not prohibit such activity by crewmembers aboard United States vessels; and

(B) nationals of a country (or countries) which by law, regulation, or in practice does not prohibit such activity by crewmembers aboard United States vessels hold a majority of the ownership interest in the vessel.

(2) ESTABLISHMENT OF LIST.—The Secretary of State shall, in accordance with section 553 of title 5, United States Code, compile and annually maintain a list, of longshore work by particular activity, of countries where performance of such a particular activity by crewmembers aboard United States vessels is prohibited by law, regulation, or in practice in the country. By not later than 90 days after the date of the enactment of this section, the Secretary shall publish a notice of proposed rulemaking to establish such list. The Secretary shall first establish such list by not later than 180 days after the date of the enactment of this section.

(3) IN PRACTICE DEFINED.—For purposes of this subsection, the term “in practice” refers to an activity normally performed in such country during the one-year period preceding the arrival of such vessel into the United States or coastal waters thereof.

CHAPTER 7—REGISTRATION OF ALIENS

ALIENS SEEKING ENTRY INTO THE UNITED STATES

SEC. 261. [8 U.S.C. 1301] No visa shall be issued to any alien seeking to enter the United States until such alien has been registered in accordance with section 221(b).

REGISTRATION OF ALIENS IN THE UNITED STATES

SEC. 262. [8 U.S.C. 1302] (a) It shall be the duty of every alien now or hereafter in the United States, who (1) is fourteen years of age or older, (2) has not been registered and fingerprinted under section 221(b) of this Act¹⁹⁵ or section 30 or 31 of the Alien Registration Act, 1940, and (3) remains in the United States for thirty days or longer, to apply for registration and to be fingerprinted before the expiration of such thirty days.

(b) It shall be the duty of every parent or legal guardian of any alien now or hereafter in the United States, who (1) is less than fourteen years of age, (2) has not been registered under section 221(b) of this Act or section 30 or 31 of the Alien Registration Act, 1940, and (3) remains in the United States for thirty days or longer, to apply for the registration of such alien before the expiration of such thirty days. Whenever any alien attains his fourteenth birthday in the United States he shall, within thirty days thereafter, apply in person for registration and to be fingerprinted.

(c)¹⁹⁶ The Attorney General may, in his discretion and on the basis of reciprocity pursuant to such regulations as he may prescribe, waive the requirement of fingerprinting specified in subsections (a) and (b) in the case of any nonimmigrant.

PROVISIONS GOVERNING REGISTRATION OF SPECIAL GROUPS

SEC. 263. [8 U.S.C. 1303] (a) Notwithstanding the provisions of sections 261 and 262, the Attorney General is authorized to prescribe special regulations and forms for the registration and fingerprinting of (1) alien crewmen, (2) holders of border-crossing identification cards, (3) aliens confined in institutions within the United States, (4) aliens under order of deportation, and (5) aliens of any other class not lawfully admitted to the United States for permanent residence.

(b) The provisions of section 262 and of this section shall not be applicable to any alien who is in the United States as a nonimmigrant under section 101(a)(15)(A) or 101(a)(15)(G) until the alien ceases to be entitled to such a nonimmigrant status.

FORMS AND PROCEDURE

SEC. 264. [8 U.S.C. 1304] (a) The Attorney General and the Secretary of State jointly are authorized and directed to prepare forms for the registration of aliens under section 261 of this title, and the Attorney General is authorized and directed to prepare forms for the registration and fingerprinting of aliens under section 262 of this title. Such forms shall contain inquiries with respect to

¹⁹⁵ Phase "section 221(b) of this Act or" was effectively restored by § 309(b)(15) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1759); previously it had been stricken by § 9 of the Immigration and Nationality Act Amendments of 1986, which was rewritten in its entirety by § 8(h) of the Immigration Technical Corrections Act of 1988 (Pub. L. 100-525, 102 Stat. 2617).

¹⁹⁶ Subsection (c) was added by § 9 of the Immigration and Nationality Act Amendments of 1986 (Pub. L. 99-653, Nov. 14, 1986), as amended by § 8(h) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2617). A similar waiver of the fingerprinting requirements of this section in the case of nonimmigrant aliens was previously available under § 8 of the Act of Sept. 11, 1957 (71 Stat. 641; 8 U.S.C. 1201a), which was repealed by § 5(b) of the Immigration and Nationality Act Amendments of 1986 (Pub. L. 99-653, Nov. 14, 1986, 100 Stat. 3656).

(1) the date and place of entry of the alien into the United States; (2) activities in which he has been and intends to be engaged; (3) the length of time he expects to remain in the United States; (4) the police and criminal record, if any, of such alien; and (5) such additional matters as may be prescribed.

(b) All registration and fingerprint records made under the provisions of this title shall be confidential, and shall be made available only (1) pursuant to section 287(f)(2), and (2) to such persons or agencies as may be designated by the Attorney General.

(c) Every person required to apply for the registration of himself or another under this title shall submit under oath the information required for such registration. Any person authorized under regulations issued by the Attorney General to register aliens under this title shall be authorized to administer oaths for such purpose.

(d) Every alien in the United States who has been registered and fingerprinted under the provisions of the Alien Registration Act, 1940, or under the provisions of this Act shall be issued a certificate of alien registration or an alien registration receipt card in such form and manner and at such time as shall be prescribed under regulations issued by the Attorney General.

(e) Every alien, eighteen years of age and over, shall at all times carry with him and have in his personal possession any certificate of alien registration or alien registration receipt card issued to him pursuant to subsection (d). Any alien who fails to comply with the provisions of this subsection shall be guilty of a misdemeanor and shall upon conviction for each offense be fined not to exceed \$100 or be imprisoned not more than thirty days, or both.

NOTICES OF CHANGE OF ADDRESS

SEC. 265. [8 U.S.C. 1305] (a) Each alien required to be registered under this title who is within the United States shall notify the Attorney General in writing of each change of address and new address within ten days from the date of such change and furnish with such notice such additional information as the Attorney General may require by regulation.

(b) The Attorney General may in his discretion, upon ten days notice, require the natives of any one or more foreign states, or any class or group thereof, who are within the United States and who are required to be registered under this title, to notify the Attorney General of their current addresses and furnish such additional information as the Attorney General may require.

(c) In the case of an alien for whom a parent or legal guardian is required to apply for registration, the notice required by this section shall be given to such parent or legal guardian.

PENALTIES

SEC. 266. [8 U.S.C. 1306] (a) Any alien required to apply for registration and to be fingerprinted in the United States who willfully fails or refuses to make such application or to be fingerprinted, and any parent or legal guardian required to apply for the registration of any alien who willfully fails or refuses to file application for the registration of such alien shall be guilty of a

misdemeanor and shall, upon conviction thereof, be fined not to exceed \$1,000 or be imprisoned not more than six months, or both.¹⁹⁷

(b) Any alien or any parent or legal guardian in the United States of any alien who fails to give written notice to the Attorney General, as required by section 265 of this title, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed \$200 or be imprisoned not more than thirty days, or both. Irrespective of whether an alien is convicted and punished as herein provided, any alien who fails to give written notice to the Attorney General, as required by section 265, shall be taken into custody and deported in the manner provided by chapter 5 of this title, unless such alien establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful.

(c) Any alien or any parent or legal guardian of any alien, who files an application for registration containing statements known by him to be false, or who procures or attempts to procure registration of himself or another person through fraud, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed \$1,000, or be imprisoned not more than six months, or both;¹⁹⁷ and any alien so convicted shall, upon the warrant of the Attorney General, be taken into custody and be deported in the manner provided in chapter 5 of this title.

(d) Any person who with unlawful intent photographs, prints, or in any other manner makes, or executes, any engraving, photograph, print, or impression in the likeness of any certificate of alien registration or an alien registration receipt card or any colorable imitation thereof, except when and as authorized under such rules and regulations as may be prescribed by the Attorney General, shall upon conviction be fined not to exceed \$5,000 or be imprisoned not more than five years, or both.

CHAPTER 8—GENERAL PENALTY PROVISIONS

PREVENTION OF UNAUTHORIZED LANDING OF ALIENS

SEC. 271. [8 U.S.C. 1321] (a) It shall be the duty of every person, including the owners, masters, officers, and agents of vessels, aircraft, transportation lines, or international bridges or toll roads, other than transportation lines which may enter into a contract as provided in section 238, bringing an alien to, or providing a means for an alien to come to, the United States (including an alien crewman whose case is not covered by section 254(a)) to prevent the landing of such alien in the United States at a port of entry other than as designated by the Attorney General or at any time or place other than as designated by the immigration officers. Any such person, owner, master, officer, or agent who fails to comply with the foregoing requirements shall be liable to a penalty to be imposed by the Attorney General of \$3,000¹⁹⁸ for each such violation, which may, in the discretion of the Attorney General, be remitted or mitigated by him in accordance with such proceedings as he shall by

¹⁹⁷ This crime is classified as a Class B misdemeanor under § 3559(a) of title 18, United States Code, and, under § 3571(b) of title 18, United States Code, the maximum fine is the *greater* of the amount specified under this section or \$25,000.

¹⁹⁸ § 543(a)(8) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5058) increased the penalty from \$1,000 to \$3,000, effective for actions taken after November 29, 1990.

regulation prescribe. Such penalty shall be a lien upon the vessel or aircraft whose owner, master, officer, or agent violates the provisions of this section, and such vessel or aircraft may be libeled therefor in the appropriate United States court.

(b) Proof that the alien failed to present himself at the time and place designated by the immigration officers shall be prima facie evidence that such alien has landed in the United States at a time or place other than as designated by the immigration officers.

(c)(1) Any owner or operator of a railroad line, international bridge, or toll road who establishes to the satisfaction of the Attorney General that the person has acted diligently and reasonably to fulfill the duty imposed by subsection (a) shall not be liable for the penalty described in such subsection, notwithstanding the failure of the person to prevent the unauthorized landing of any alien.

(2)(A) At the request of any person described in paragraph (1), the Attorney General shall inspect any facility established, or any method utilized, at a point of entry into the United States by such person for the purpose of complying with subsection (a). The Attorney General shall approve any such facility or method (for such period of time as the Attorney General may prescribe) which the Attorney General determines is satisfactory for such purpose.

(B) Proof that any person described in paragraph (1) has diligently maintained any facility, or utilized any method, which has been approved by the Attorney General under subparagraph (A) (within the period for which the approval is effective) shall be prima facie evidence that such person acted diligently and reasonably to fulfill the duty imposed by subsection (a) (within the meaning of paragraph (1) of this subsection).

BRINGING IN ALIENS SUBJECT TO EXCLUSION ON A HEALTH-RELATED GROUND

SEC. 272. [8 U.S.C. 1322] (a) Any person who shall bring to the United States an alien (other than an alien crewman) who is excludable under section 212(a)(1)¹⁹⁹ shall pay to the Commissioner for each and every alien so afflicted the sum of \$3,000²⁰⁰ unless (1) the alien was in possession of a valid, unexpired immigrant visa, or (2) the alien was allowed to land in the United States, or (3) the alien was in possession of a valid unexpired non-immigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired re-entry permit issued to him, and (A) such application was made within one hundred and twenty days of the date of issuance of the visa or other document, or in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (B) in the event the application was made later than one hun-

¹⁹⁹ § 603(a)(15)(A) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5084) struck "(1) mentally retarded, (2) insane, (3) afflicted with psychopathic personality, or with sexual deviation, (4) a chronic alcoholic, (5) afflicted with any dangerous contagious disease, or (6) a narcotic drug addict" and inserted "excludable under section 212(a)(1)".

²⁰⁰ § 543(a)(9) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5058) substituted payment of \$3,000 to the Commissioner for payment of \$1,000 to the collector of customs, effective for actions taken after November 29, 1990.

dred and twenty days of the date of issuance of the visa or other document or such examination and admission, if such person establishes to the satisfaction of the Attorney General that the existence of the excluding condition could not have been detected by the exercise of due diligence prior to the alien's embarkation.

(b)²⁰¹ No vessel or aircraft shall be granted clearance papers pending determination of the question of liability to the payment of any fine under this section, or while the fines remain unpaid, nor shall such fines be remitted or refunded; but clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fines or of a bond with sufficient surety to secure the payment thereof, approved by the Commissioner.

(c) Nothing contained in this section shall be construed to subject transportation companies to a fine for bringing to ports of entry in the United States aliens who are entitled by law to exemption from the excluding provisions of section 212(a).

(d) As used in this section, the term "person" means the owner, master, agent, commanding officer, charterer, or consignee of any vessel or aircraft.

UNLAWFUL BRINGING OF ALIENS INTO UNITED STATES

SEC. 273. [8 U.S.C. 1323] (a) It shall be unlawful for any person, including any transportation company, or the owner, master, commanding officer, agent, charterer, or consignee of any vessel or aircraft, to bring to the United States from any place outside thereof (other than from foreign contiguous territory) any alien who does not have a valid passport²⁰² and an unexpired visa, if a visa was required under this Act or regulations issued thereunder.

(b) If it appears to the satisfaction of the Attorney General that any alien has been so brought, such person, or transportation company, or the master, commanding officer, agent, owner, charterer, or consignee of any such vessel or aircraft, shall pay to the Commissioner a fine of \$3,000²⁰³ for each alien so brought and, except in the case of any such alien who is admitted, or permitted to land temporarily, in addition, an amount equal to that paid by such alien for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, such latter fine to be delivered by the Commissioner^{203a} to the alien on whose account the assessment is made. No vessel or aircraft shall be granted clearance pending the determination of the liability to the payment of such fine or while such fine remain [sic] unpaid, except that clearance may be granted prior to the determination of such question

²⁰¹ Former subsection (b) was repealed, and former subsections (c) through (e) were redesignated as subsections (b) through (d), by § 603(a)(15) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5084). For former subsection (b), see Appendix II.A.2.

²⁰² The reference to a valid passport was inserted by § 201(b) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5014), effective November 29, 1990.

²⁰³ § 543(a)(10)(A) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5058) substituted payment of \$3,000 to the Commissioner for payment of \$1,000 to the collector of customs, effective for actions taken after November 29, 1990. § 209(a)(1) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4312, Oct. 25, 1994) struck "the sum of \$3000" and inserted "a fine of \$3,000"; the law previously provided "\$3,000" but the amendment was executed to reflect intent.

^{203a} § 219(p) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4317, Oct. 25, 1994) substituted "Commissioner" for "collector of customs".

upon the deposit of an amount sufficient to cover such fine, or of a bond with sufficient surety to secure the payment thereof approved by the Commissioner.

(c) Except as provided in subsection (e), such fine shall not be remitted or refunded, unless it appears to the satisfaction of the Attorney General that such person, and the owner, master, commanding officer, agent, charterer, and consignee of the vessel or aircraft, prior to the departure of the vessel or aircraft from the last port outside the United States, did not know, and could not have ascertained by the exercise of reasonable diligence, that the individual transported was an alien and that a valid passport²⁰² or visa was required.

(d) The owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside the United States who fails to deport any alien stowaway on the vessel or aircraft on which such stowaway arrived or on another vessel or aircraft at the expense of the vessel or aircraft on which such stowaway arrived when required to do so by an immigration officer, shall pay to the Commissioner the sum of \$3,000 for each alien stowaway, in respect of whom any such failure occurs.²⁰⁴ Pending final determination of liability for such fine, no such vessel or aircraft shall be granted clearance, except that clearance may be granted upon the deposit of an amount sufficient to cover such fine, or of a bond with sufficient surety to secure the payment thereof approved by the Commissioner. The provisions of section 235 for detention of aliens for examination before special inquiry officers and the right of appeal provided for in section 236 shall not apply to aliens who arrive as stowaways and no such alien shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to such regulations as the Attorney General may prescribe for the ultimate departure or removal or deportation of such alien from the United States.

(e)^{204a} A fine under this section may be reduced, refunded, or waived under such regulations as the Attorney General shall prescribe in cases in which—

(1) the carrier demonstrates that it had screened all passengers on the vessel or aircraft in accordance with procedures prescribed by the Attorney General, or

(2) circumstances exist that the Attorney General determines would justify such reduction, refund, or waiver.

²⁰⁴ This sentence was amended to read as shown by § 216 of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4315, Oct. 25, 1994); this effectively supersedes the amendment made by § 209 of that Act, which would have struck "the sum of \$3000" and inserted "a fine of \$3,000". Previously, § 543(a)(10)(B) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5059) substituted payment of \$3,000 to the Commissioner for payment of \$1,000 to the collector of customs, effective for actions taken after November 29, 1990.

^{204a} Subsection (e) was added by § 209(a)(6) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4312, Oct. 25, 1994), effective with respect to aliens brought to the United States after December 25, 1994, under § 209(b) of that Act; the effective date reflects probably intent (by substituting "section" for "subsection" in that § 209(b)).

BRINGING IN AND HARBORING CERTAIN ALIENS

SEC. 274. [8 U.S.C. 1324] (a)²⁰⁵ CRIMINAL PENALTIES.—(1)(A) Any person who—

(i) knowing that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien;

(ii) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law;

(iii) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation; or

(iv) encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law,

shall be punished as provided in subparagraph (B)^{205a}.

(B)^{205b} A person who violates subparagraph (A) shall, for each alien in respect to whom such a violation occurs—

(i) in the case of a violation of subparagraph (A)(i), be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

(ii) in the case of a violation of subparagraph (A) (ii), (iii), or (iv), be fined under title 18, United States Code, imprisoned not more than 5 years, or both;

(iii) in the case of a violation of subparagraph (A) (i), (ii), (iii), or (iv) during and in relation to which the person causes serious bodily injury (as defined in section 1365 of title 18, United States Code) to, or places in jeopardy the life of, any person, be fined under title 18, United States Code, imprisoned not more than 20 years, or both; and

(iv) in the case of a violation of subparagraph (A) (i), (ii), (iii), or (iv) resulting in the death of any person, be punished

²⁰⁵ Subsection (a) was amended by § 112(a) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3381). The previous subsection (a) had a proviso (commonly known as the "Texas proviso") that read as follows: "Provided, however, That for the purposes of this section, employment (including the usual and normal practices incident to employment) shall not be deemed to constitute harboring".

^{205a} § 60024(1)(F) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 1981, Sept. 13, 1994) struck "shall be fined in accordance with title 18, or imprisoned not more than five years, or both, for each alien in respect to whom any violation of this paragraph occurs" and inserted "shall be punished as provided in subparagraph (B)"; executed to reflect intent; existing law specified "United States Code," after "title 18".

^{205b} Subparagraph (B) was added by § 60024(1)(G) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 1981, Sept. 13, 1994).

by death or imprisoned for any term of years or for life, fined under title 18, United States Code, or both.

(2) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien shall, for each transaction constituting a violation of this paragraph, regardless of the number of aliens involved—

(A) be fined in accordance with title 18, United States Code, or imprisoned not more than one year, or both; or

(B) in the case of—

(i) a second or subsequent offense,

(ii) an offense done for the purpose of commercial advantage or private financial gain, or

(iii) an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer at a designated port of entry,

be fined in accordance with title 18, United States Code, or ^{205c} in the case of a violation of subparagraph (B)(ii), imprisoned not more than 10 years, or both; or in the case of a violation of subparagraph (B)(i) or (B)(iii), imprisoned not more than 5 years, or both..

(b)(1) Any conveyance, including any vessel, vehicle, or aircraft which has been or is being used in the commission of a violation of subsection (a) shall be seized and subject to forfeiture, except that—

(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to the illegal act; and

(B) no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State.

(2) Any conveyance subject to seizure under this section may be seized without warrant if there is probable cause to believe the conveyance has been used or is being used in a violation of subsection (a) and circumstances exist where a warrant is not constitutionally required.

(3) All provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for the violation of the customs laws; the disposition of such property or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to sei-

^{205c} § 60024(2) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322 108 Stat. 1982, Sept. 13, 1994) inserted the matter beginning with "or in the case of"; the extraneous period was added by that amendment.

zures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof, except that duties imposed on customs officers or other persons regarding the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures carried out under the provisions of this section by such officers or persons authorized for that purpose by the Attorney General.

(4) Whenever a conveyance is forfeited under this section the Attorney General may—

(A) retain the conveyance for official use;

(B) sell the conveyance, in which case the proceeds from any such sale shall be used to pay all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs;

(C) require that the General Services Administration, or the Maritime Administration if appropriate under section 203(i) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(i)), take custody of the conveyance and remove it for disposition in accordance with law; or

(D) dispose of the conveyance in accordance with the terms and conditions of any petition of remission or mitigation of forfeiture granted by the Attorney General.

(5) In all suits or actions brought for the forfeiture of any conveyance seized under this section, where the conveyance is claimed by any person, the burden of proof shall lie upon such claimant, except that probable cause shall be first shown for the institution of such suit or action. In determining whether probable cause exists, any of the following shall be prima facie evidence that an alien involved in the alleged violation had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law:

(A) Records of any judicial or administrative proceeding in which that alien's status was an issue and in which it was determined that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law.

(B) Official records of the Service or the Department of State showing that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law.

(C) Testimony, by an immigration officer having personal knowledge of the facts concerning that alien's status, that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law.

(c) No officer or person shall have authority to make any arrest for a violation of any provision of this section except officers and employees of the Service designated by the Attorney General, ei-

ther individually or as a member of a class, and all other officers whose duty it is to enforce criminal laws.

UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 274A. [8 U.S.C. 1324a] (a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

(1)²⁰⁶ IN GENERAL.—It is unlawful for a person or other entity^{207 208}—

(A) to hire, or to recruit or refer for a fee, for employment in the United States an alien knowing the alien is an unauthorized alien (as defined in subsection (h)(3)) with respect to such employment, or

(B)(i) to hire for employment in the United States an individual without complying with the requirements of subsection (b) or (ii) if the person or entity is an agricultural association, agricultural employer, or farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act), to hire, or to recruit or refer for a fee, for employment in the United States an individual without complying with the requirements of subsection (b).

(2)²⁰⁶ CONTINUING EMPLOYMENT.—It is unlawful for a person or other entity, after hiring an alien for employment in accordance with paragraph (1), to continue to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

(3) DEFENSE.—A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated

²⁰⁶ Paragraph (3) of § 101(a) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, 100 Stat. 3372) provides as follows:

(3) GRANDFATHER FOR CURRENT EMPLOYEES.—(A) Section 274A(a)(1) of the Immigration and Nationality Act shall not apply to the hiring, or recruiting or referring of an individual for employment which has occurred before the date of the enactment of this Act.

(B) Section 274A(a)(2) of the Immigration and Nationality Act shall not apply to continuing employment of an alien who was hired before the date of the enactment of this Act.

²⁰⁷ § 521(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5053) amended this paragraph to eliminate the paperwork requirement for recruiters and referrers applicable to recruiting and referring occurring on or after November 29, 1990.

²⁰⁸ Section 8704 of title 46, U.S. Code, added by § 5(f)(1) of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Pub. L. 100-239, Jan. 11, 1988) provides as follows:

§ 8704. Alien deemed to be employed in the United States

An alien is deemed to be employed in the United States for purposes of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) if the alien is an unlicensed individual employed on a fishing, fish processing, or fish tender vessel that—

(1) is a vessel of the United States engaged in the fisheries in the navigable waters of the United States or the exclusive economic zone; and

(2) is not engaged in fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802).

Section 5(f)(3) of that Act, 101 Stat. 1781, provides as follows:

(3) With respect to an alien who is deemed to be employed in the United States under section 8704 of title 46, United States Code (as amended by this subsection), the term “date of the enactment of this section” as used in section 274A(i) of the Immigration and Nationality Act means the date 180 days after the enactment of this section.

NOTE.—See footnote 206 on previous page.

(iv) unexpired foreign passport, if the passport has an appropriate, unexpired endorsement of the Attorney General authorizing the individual's employment in the United States; or

(v) resident alien card or other alien registration card, if the card—

(I) contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this subsection, and

(II) is evidence of authorization of employment in the United States.

(C) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is an individual's—

(i) social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States);

(ii) certificate of birth in the United States or establishing United States nationality at birth, which certificate the Attorney General finds, by regulation, to be acceptable for purposes of this section; or

(iii) other documentation evidencing authorization of employment in the United States which the Attorney General finds, by regulation, to be acceptable for purposes of this section.

(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

(i) driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this section; or

(ii) in the case of individuals under 16 years of age or in a State which does not provide for issuance of an identification document (other than a driver's license) referred to in clause (i), documentation of personal identity of such other type as the Attorney General finds, by regulation, provides a reliable means of identification.

(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—The individual must attest, under penalty of perjury on the form designated or established for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment.

(3) RETENTION OF VERIFICATION FORM.—After completion of such form in accordance with paragraphs (1) and (2), the per-

paragraph (1)(A) with respect to such hiring, recruiting, or referral.

(4) **USE OF LABOR THROUGH CONTRACT.**—For purposes of this section, a person or other entity who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of this section, to obtain the labor of an alien in the United States knowing that the alien is an unauthorized alien (as defined in subsection (h)(3)) with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

(5) **USE OF STATE EMPLOYMENT AGENCY DOCUMENTATION.**—For purposes of paragraphs (1)(B) and (3), a person or entity shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of an individual who was referred for such employment by a State employment agency (as defined by the Attorney General), if the person or entity has and retains (for the period and in the manner described in subsection (b)(3)) appropriate documentation of such referral by that agency, which documentation certifies that the agency has complied with the procedures specified in subsection (b) with respect to the individual's referral.

(b) **EMPLOYMENT VERIFICATION SYSTEM.**—The requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, the requirements specified in the following three paragraphs:

(1) **ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.**—

(A) **IN GENERAL.**—The person or entity must attest, under penalty of perjury and on a form designated or established by the Attorney General by regulation, that it has verified that the individual is not an unauthorized alien by examining—

- (i) a document described in subparagraph (B), or
- (ii) a document described in subparagraph (C) and a document described in subparagraph (D).

A person or entity has complied with the requirement of this paragraph with respect to examination of a document if the document reasonably appears on its face to be genuine. If an individual provides a document or combination of documents that reasonably appears on its face to be genuine and that is sufficient to meet the requirements of the first sentence of this paragraph, nothing in this paragraph shall be construed as requiring the person or entity to solicit the production of any other document or as requiring the individual to produce such another document.

(B) **DOCUMENTS ESTABLISHING BOTH EMPLOYMENT AUTHORIZATION AND IDENTITY.**—A document described in this subparagraph is an individual's—

- (i) United States passport;
- (ii) certificate of United States citizenship;
- (iii) certificate of naturalization;

son or entity must retain the form and make it available for inspection by officers of the Service, the Special Counsel for Immigration-Related Unfair Employment Practices,²⁰⁹ or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral, and

(B) in the case of the hiring of an individual—

(i) three years after the date of such hiring, or

(ii) one year after the date the individual's employment is terminated,

whichever is later.

(4) **COPYING OF DOCUMENTATION PERMITTED.**—Notwithstanding any other provision of law, the person or entity may copy a document presented by an individual pursuant to this subsection and may retain the copy, but only (except as otherwise permitted under law) for the purpose of complying with the requirements of this subsection.

(5) **LIMITATION ON USE OF ATTESTATION FORM.**—A form designated or established by the Attorney General under this subsection and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this Act and sections 1001, 1028, 1546, and 1621 of title 18, United States Code.

(c) **NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.**—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(d) **EVALUATION AND CHANGES IN EMPLOYMENT VERIFICATION SYSTEM.**—

(1) **PRESIDENTIAL MONITORING AND IMPROVEMENTS IN SYSTEM.**—

(A) **MONITORING.**—The President shall provide for the monitoring and evaluation of the degree to which the employment verification system established under subsection (b) provides a secure system to determine employment eligibility in the United States and shall examine the suitability of existing Federal and State identification systems for use for this purpose.

(B) **IMPROVEMENTS TO ESTABLISH SECURE SYSTEM.**—To the extent that the system established under subsection (b) is found not to be a secure system to determine employment eligibility in the United States, the President shall, subject to paragraph (3) and taking into account the results of any demonstration projects conducted under paragraph (4), implement such changes in (including additions to) the requirements of subsection (b) as may be necessary to establish a secure system to determine employment eli-

²⁰⁹The reference to the Special Counsel was inserted by § 538(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5056), effective on November 29, 1990, as amended by § 219(z)(4) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4318, Oct. 25, 1994).

gibility in the United States. Such changes in the system may be implemented only if the changes conform to the requirements of paragraph (2).

(2) RESTRICTIONS ON CHANGES IN SYSTEM.—Any change the President proposes to implement under paragraph (1) in the verification system must be designed in a manner so the verification system, as so changed, meets the following requirements:

(A) RELIABLE DETERMINATION OF IDENTITY.—The system must be capable of reliably determining whether—

- (i) a person with the identity claimed by an employee or prospective employee is eligible to work, and
- (ii) the employee or prospective employee is claiming the identity of another individual.

(B) USING OF COUNTERFEIT-RESISTANT DOCUMENTS.—If the system requires that a document be presented to or examined by an employer, the document must be in a form which is resistant to counterfeiting and tampering.

(C) LIMITED USE OF SYSTEM.—Any personal information utilized by the system may not be made available to Government agencies, employers, and other persons except to the extent necessary to verify that an individual is not an unauthorized alien.

(D) PRIVACY OF INFORMATION.—The system must protect the privacy and security of personal information and identifiers utilized in the system.

(E) LIMITED DENIAL OF VERIFICATION.—A verification that an employee or prospective employee is eligible to be employed in the United States may not be withheld or revoked under the system for any reason other than that the employee or prospective employee is an unauthorized alien.

(F) LIMITED USE FOR LAW ENFORCEMENT PURPOSES.—The system may not be used for law enforcement purposes, other than for enforcement of this Act or sections 1001, 1028, 1546, and 1621 of title 18, United States Code.

(G) RESTRICTION ON USE OF NEW DOCUMENTS.—If the system requires individuals to present a new card or other document (designed specifically for use for this purpose) at the time of hiring, recruitment, or referral, then such document may not be required to be presented for any purpose other than under this Act (or enforcement of sections 1001, 1028, 1546, and 1621 of title 18, United States Code) nor to be carried on one's person.

(3) NOTICE TO CONGRESS BEFORE IMPLEMENTING CHANGES.—

(A) IN GENERAL.—The President may not implement any change under paragraph (1) unless at least—

- (i) 60 days,
- (ii) one year, in the case of a major change described in subparagraph (D)(iii), or
- (iii) two years, in the case of a major change described in clause (i) or (ii) of subparagraph (D),

before the date of implementation of the change, the President has prepared and transmitted to the Committee on the Judiciary of the House of Representatives and to the Committee on the Judiciary of the Senate a written report setting forth the proposed change. If the President proposes to make any change regarding social security account number cards, the President shall transmit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a written report setting forth the proposed change. The President promptly shall cause to have printed in the Federal Register the substance of any major change (described in subparagraph (D)) proposed and reported to Congress.

(B) CONTENTS OF REPORT.—In any report under subparagraph (A) the President shall include recommendations for the establishment of civil and criminal sanctions for unauthorized use or disclosure of the information or identifiers contained in such system.

(C) CONGRESSIONAL REVIEW OF MAJOR CHANGES.—

(i) HEARINGS AND REVIEW.—The Committees on the Judiciary of the House of Representatives and of the Senate shall cause to have printed in the Congressional Record the substance of any major change described in subparagraph (D), shall hold hearings respecting the feasibility and desirability of implementing such a change, and, within the two year period before implementation, shall report to their respective Houses findings on whether or not such a change should be implemented.

(ii) CONGRESSIONAL ACTION.—No major change may be implemented unless the Congress specifically provides, in an appropriations or other Act, for funds for implementation of the change.

(D) MAJOR CHANGES DEFINED.—As used in this paragraph, the term “major change” means a change which would—

(i) require an individual to present a new card or other document (designed specifically for use for this purpose) at the time of hiring, recruitment, or referral,

(ii) provide for a telephone verification system under which an employer, recruiter, or referrer must transmit to a Federal official information concerning the immigration status of prospective employees and the official transmits to the person, and the person must record, a verification code, or

(iii) require any change in any card used for accounting purposes under the Social Security Act, including any change requiring that the only social security account number cards which may be presented in order to comply with subsection (b)(1)(C)(i) are such cards as are in a counterfeit-resistant form consistent with the second sentence of section 205(c)(2)(D) of the Social Security Act.

(E) GENERAL REVENUE FUNDING OF SOCIAL SECURITY CARD CHANGES.—Any costs incurred in developing and implementing any change described in subparagraph (D)(iii) for purposes of this subsection shall not be paid for out of any trust fund established under the Social Security Act.

(4) DEMONSTRATION PROJECTS.—²¹⁰

(A) AUTHORITY.—The President may undertake demonstration projects (consistent with paragraph (2)) of different changes in the requirements of subsection (b). No such project may extend over a period of longer than five ^{210a} years.

(B) REPORTS ON PROJECTS.—The President shall report to the Congress on the results of demonstration projects conducted under this paragraph.

(e) COMPLIANCE.—

(1) COMPLAINTS AND INVESTIGATIONS.—The Attorney General shall establish procedures—

(A) for individuals and entities to file written, signed complaints respecting potential violations of subsection (a) or (g)(1),

(B) for the investigation of those complaints which, on their face, have a substantial probability of validity,

(C) for the investigation of such other violations of subsection (a) or (g)(1) as the Attorney General determines to be appropriate, and

(D) for the designation in the Service of a unit which has, as its primary duty, the prosecution of cases of violations of subsection (a) or (g)(1) under this subsection.

(2) AUTHORITY IN INVESTIGATIONS.—In conducting investigations and hearings under this subsection—

(A) immigration officers and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated, and

(B) administrative law judges, may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the Attorney General, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

(3) HEARING.—

(A) IN GENERAL.—Before imposing an order described in paragraph (4), (5), or (6) against a person or entity under this subsection for a violation of subsection (a) or (g)(1), the Attorney General shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the

²¹⁰ § 5 of the Immigration Nursing Relief Act of 1989 (Pub. L. 101-238, Dec. 18, 1989) provides: pilot projects for secure documents under subsection (b)(1) of this section. For text, see Appendix II.I.

^{210a} § 213 of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416 108 Stat. 4314, Oct. 25, 1994), struck “three” and inserted “five”.

Attorney General) of the date of the notice, a hearing respecting the violation.

(B) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. The hearing shall be held at the nearest practicable place to the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the Attorney General's imposition of the order shall constitute a final and unappealable order.

(C) ISSUANCE OF ORDERS.—If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity named in the complaint has violated subsection (a) or (g)(1), the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (4), (5), or (6).

(4) CEASE AND DESIST ORDER WITH CIVIL MONEY PENALTY FOR HIRING, RECRUITING, AND REFERRAL VIOLATIONS.—With respect to a violation of subsection (a)(1)(A) or (a)(2), the order under this subsection—

(A) shall require the person or entity to cease and desist from such violations and to pay a civil penalty in an amount of—

(i) not less than \$250 and not more than \$2,000 for each unauthorized alien with respect to whom a violation of either such subsection occurred,

(ii) not less than \$2,000 and not more than \$5,000 for each such alien in the case of a person or entity previously subject to one order under this paragraph, or

(iii) not less than \$3,000 and not more than \$10,000 for each such alien in the case of a person or entity previously subject to more than one order under this paragraph; and

(B) may require the person or entity—

(i) to comply with the requirements of subsection (b) (or subsection (d) if applicable) with respect to individuals hired (or recruited or referred for employment for a fee) during a period of up to three years, and

(ii) to take such other remedial action as is appropriate.

In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

(5) ORDER FOR CIVIL MONEY PENALTY FOR PAPERWORK VIOLATIONS.—With respect to a violation of subsection (a)(1)(B), the order under this subsection shall require the person or entity to pay a civil penalty in an amount of not less than \$100

and not more than \$1,000 for each individual with respect to whom such violation occurred. In determining the amount of the penalty, due consideration shall be given to the size of the business of the employer being charged, the good faith of the employer, the seriousness of the violation, whether or not the individual was an unauthorized alien, and the history of previous violations.

(6) ORDER FOR PROHIBITED INDEMNITY BONDS.—With respect to a violation of subsection (g)(1), the order under this subsection may provide for the remedy described in subsection (g)(2).

(7) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge shall become the final agency decision and order of the Attorney General unless within 30 days, the Attorney General modifies or vacates the decision and order, in which case the decision and order of the Attorney General shall become a final order under this subsection. The Attorney General may not delegate the Attorney General's authority under this paragraph to any entity which has review authority over immigration-related matters.

(8) JUDICIAL REVIEW.—A person or entity adversely affected by a final order respecting an assessment may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(9) ENFORCEMENT OF ORDERS.—If a person or entity fails to comply with a final order issued under this subsection against the person or entity, the Attorney General shall file a suit to seek compliance with the order in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OF PRACTICE VIOLATIONS.—

(1) CRIMINAL PENALTY.—Any person or entity which engages in a pattern or practice of violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than \$3,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than six months for the entire pattern or practice, or both, notwithstanding the provisions of any other Federal law relating to fine levels.²¹¹

(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—Whenever the Attorney General has reasonable cause to believe that a person or entity is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the person or entity, as the Attorney General deems necessary.

(g) PROHIBITION OF INDEMNITY BONDS.—

²¹¹ Presumably, this is intended to override the higher fines permitted under § 3571(b) of title 18, United States Code.

(1) **PROHIBITION.**—It is unlawful for a person or other entity, in the hiring, recruiting, or referring for employment of any individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

(2) **CIVIL PENALTY.**—Any person or entity which is determined, after notice and opportunity for an administrative hearing under subsection (e), to have violated paragraph (1) shall be subject to a civil penalty of \$1,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the general fund of the Treasury.

(h) **MISCELLANEOUS PROVISIONS.**—

(1) **DOCUMENTATION.**—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) authorized to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

(2) **PREEMPTION.**—The provisions of this section preempt any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.

(3) **DEFINITION OF UNAUTHORIZED ALIEN.**—As used in this section, the term “unauthorized alien” means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.

(i) **EFFECTIVE DATES.**—

(1) **6-MONTH PUBLIC INFORMATION PERIOD.**—During the six-month period beginning on the first day of the first month after the date of the enactment of this section²¹²—

(A) the Attorney General, in cooperation with the Secretaries of Agriculture, Commerce, Health and Human Services, Labor, and the Treasury and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for public education respecting the requirements of this section, and

(B) the Attorney General shall not conduct any proceeding, nor issue any order, under this section on the basis of any violation alleged to have occurred during the period.

²¹² For construction of the phrase “date of the enactment of this section” in the case of certain aliens employed on fishing, fish processing, or fish tender vessels, see footnote 207 to section 274A(a)(1).

(2) 12-MONTH FIRST CITATION PERIOD.—In the case of a person or entity, in the first instance in which the Attorney General has reason to believe that the person or entity may have violated subsection (a) during the subsequent 12-month period, the Attorney General shall provide a citation to the person or entity indicating that such a violation or violations may have occurred and shall not conduct any proceeding, nor issue any order, under this section on the basis of such alleged violation or violations.

(3) DEFERRAL OF ENFORCEMENT WITH RESPECT TO SEASONAL AGRICULTURAL SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), before the end of the application period (as defined in subparagraph (C)(i)), the Attorney General shall not conduct any proceeding, nor impose any penalty, under this section on the basis of any violation alleged to have occurred with respect to employment of an individual in seasonal agricultural services.

(B) PROHIBITION OF RECRUITMENT OUTSIDE THE UNITED STATES.—

(i) IN GENERAL.—During the application period, it is unlawful for a person or entity (including a farm labor contractor) or an agent of such a person or entity, to recruit an unauthorized alien (other than an alien described in clause (ii)) who is outside the United States to enter the United States to perform seasonal agricultural services.

(ii) EXCEPTION.—Clause (i) shall not apply to an alien who the person or entity reasonably believes meets the requirements of section 210(a)(2) of this Act (relating to performance of seasonal agricultural services).

(iii) PENALTY FOR VIOLATION.—A person, entity, or agent that violates clause (i) shall be deemed to be subject to an order under this section in the same manner as if it had violated subsection (a)(1)(A), without regard to paragraph (2) of this subsection.

(C) DEFINITIONS.—In this paragraph:

(i) APPLICATION PERIOD.—The term “application period” means the period described in section 210(a)(1).

(ii) SEASONAL AGRICULTURAL SERVICES.—The term “seasonal agricultural services” has the meaning given such term in section 210(h).

(j) GENERAL ACCOUNTING OFFICE REPORTS.—

(1) IN GENERAL.—Beginning one year after the date of enactment of this section, and at intervals of one year thereafter for a period of three years after such date, the Comptroller General shall prepare and transmit to the Congress and to the taskforce established under subsection (k) a report describing the results of a review of the implementation and enforcement of this section during the preceding twelve-month period, for the purpose of determining if—

(A) such provisions have been carried out satisfactorily;

(B) a pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment; and

(C) an unnecessary regulatory burden has been created for employers hiring such workers.

(2) DETERMINATION ON DISCRIMINATION.—In each report, the Comptroller General shall make a specific determination as to whether the implementation of this section has resulted in a pattern of discrimination in employment (against other than unauthorized aliens) on the basis of national origin.

(3) RECOMMENDATIONS.—If the Comptroller General has determined that such a pattern of discrimination has resulted, the report—

(A) shall include a description of the scope of that discrimination, and

(B) may include recommendations for such legislation as may be appropriate to deter or remedy such discrimination.

(k) REVIEW BY TASKFORCE.—

(1) ESTABLISHMENT OF JOINT TASKFORCE.—The Attorney General, jointly with the Chairman of the Commission on Civil Rights and the Chairman of the Equal Employment Opportunity Commission, shall establish a taskforce to review each report of the Comptroller General transmitted under subsection (j)(1).

(2) RECOMMENDATIONS TO CONGRESS.—If the report transmitted includes a determination that the implementation of this section has resulted in a pattern of discrimination in employment (against other than unauthorized aliens) on the basis of national origin, the taskforce shall, taking into consideration any recommendations in the report, report to Congress recommendations for such legislation as may be appropriate to deter or remedy such discrimination.

(3) CONGRESSIONAL HEARINGS.—The Committees on the Judiciary of the House of Representatives and of the Senate shall hold hearings respecting any report of the taskforce under paragraph (2) within 60 days after the date of receipt of the report.

(l) TERMINATION DATE FOR EMPLOYER SANCTIONS.—

(1) IF REPORT OF WIDESPREAD DISCRIMINATION AND CONGRESSIONAL APPROVAL.—The provisions of this section shall terminate 30 calendar days after receipt of the last report required to be transmitted under subsection (j), if—

(A) the Comptroller General determines, and so reports in such report, that a widespread pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment solely from the implementation of this section; and

(B) there is enacted, within such period of 30 calendar days, a joint resolution stating in substance that the Congress approves the findings of the Comptroller General contained in such report.

(2) SENATE PROCEDURES FOR CONSIDERATION.—Any joint resolution referred to in clause (B) of paragraph (1) shall be considered in the Senate in accordance with subsection (n).

(m) EXPEDITED PROCEDURES IN THE HOUSE OF REPRESENTATIVES.—For the purpose of expediting the consideration and adoption of joint resolutions under subsection (l), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(n) EXPEDITED PROCEDURES IN THE SENATE.—

(1) CONTINUITY OF SESSION.—For purposes of subsection (l), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

(2) RULEMAKING POWER.—Paragraphs (3) and (4) of this subsection are enacted—

(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of joint resolutions referred to in subsection (l), and supersede other rules of the Senate only to the extent that such paragraphs are inconsistent therewith; and

(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner as in the case of any other rule of the Senate.

(3) COMMITTEE CONSIDERATION.—

(A) MOTION TO DISCHARGE.—If the committee of the Senate to which has been referred a joint resolution relating to the report described in subsection (l) has not reported such joint resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the joint resolution or to discharge the committee from further consideration of any other joint resolution introduced with respect to the same report which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a joint resolution with respect to the same report.

(B) CONSIDERATION OF MOTION.—A motion to discharge under subparagraph (A) of this paragraph may be made only by a Senator favoring the joint resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(4) MOTION TO PROCEED TO CONSIDERATION.—

(A) IN GENERAL.—A motion in the Senate to proceed to the consideration of a joint resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) DEBATE ON RESOLUTION.—Debate in the Senate on a joint resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) DEBATE ON MOTION.—Debate in the Senate on any debatable motion or appeal in connection with a joint resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) MOTIONS TO LIMIT DEBATE.—A motion in the Senate to further limit debate on a joint resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a joint resolution is in order in the Senate.

UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

SEC. 274B. [8 U.S.C. 1324b] (a) PROHIBITION OF DISCRIMINATION BASED ON NATIONAL ORIGIN OR CITIZENSHIP STATUS.—

(1) GENERAL RULE.—It is an unfair immigration-related employment practice for a person or other entity to discriminate against any individual (other than an unauthorized alien, as defined in section 274A(h)(3)) with respect to the hiring, or recruitment or referral for a fee, of the individual for employment or the discharging of the individual from employment—

(A) because of such individual's national origin, or

(B) in the case of a protected individual (as defined in paragraph (3)), because of such individual's citizenship status.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A) a person or other entity that employs three or fewer employees,

(B) a person's or entity's discrimination because of an individual's national origin if the discrimination with respect to that person or entity and that individual is covered under section 703 of the Civil Rights Act of 1964, or

(C) discrimination because of citizenship status which is otherwise required in order to comply with law, regulation, or executive order, or required by Federal, State, or

local government contract, or which the Attorney General determines to be essential for an employer to do business with an agency or department of the Federal, State, or local government.

(3) DEFINITION OF PROTECTED INDIVIDUAL.—As used in paragraph (1), the term “protected individual” means an individual who—

(A) is a citizen or national of the United States, or

(B)²¹³ is an alien who is lawfully admitted for permanent residence, is granted the status of an alien lawfully admitted for temporary residence under section 210(a), 210A(a), or 245A(a)(1), is admitted as a refugee under section 207, or is granted asylum under section 208; but does not include (i) an alien who fails to apply for naturalization within six months of the date the alien first becomes eligible (by virtue of period of lawful permanent residence to apply for naturalization or, if later, within six months after the date of the enactment of this section and (ii) an alien who has applied on a timely basis, but has not been naturalized as a citizen within 2 years after the date of the application, unless the alien can establish that the alien is actively pursuing naturalization, except that time consumed in the Service’s processing the application shall not be counted toward the 2-year period.

(4) ADDITIONAL EXCEPTION PROVIDING RIGHT TO PREFER EQUALLY QUALIFIED CITIZENS.—Notwithstanding any other provision of this section, it is not an unfair immigration-related employment practice for a person or other entity to prefer to hire, recruit, or refer an individual who is a citizen or national of the United States over another individual who is an alien if the two individuals are equally qualified.

(5)²¹⁴ PROHIBITION OF INTIMIDATION OR RETALIATION.—It is also an unfair immigration-related employment practice for a person or other entity to intimidate, threaten, coerce, or retaliate against any individual for the purpose of interfering with any right or privilege secured under this section or because the individual intends to file or has filed a charge or a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this section. An individual so intimidated, threatened, coerced, or retaliated against shall be considered, for purposes of subsections (d) and (g), to have been discriminated against.

(6)²¹⁵ TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS EMPLOYMENT PRACTICES.—For purposes of paragraph (1), a person’s or other entity’s request, for purposes of satisfying the requirements of section 274A(b), for more or different docu

²¹³ The amendments made by §533(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5054), applicable to unfair immigration-related employment practices occurring at any time, changed the defined term from “citizen or intending citizen” to “protected individual” and eliminated the requirement that an alien evidence an intention to become a citizen through completing a declaration of intention to become a citizen.

²¹⁴ Paragraph (5) was added by §534(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5055), effective for actions occurring on or after November 29, 1990.

²¹⁵ Paragraph (6) was added by §535(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5055), effective on November 29, 1990, but applicable to actions occurring on or after that date.

ments than are required under such section or refusing to honor documents tendered that on their face reasonably appear to be genuine shall be treated as an unfair immigration-related employment practice relating to the hiring of individuals.

(b) CHARGES OF VIOLATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), any person alleging that the person is adversely affected directly by an unfair immigration-related employment practice (or a person on that person's behalf) or an officer of the Service alleging that an unfair immigration-related employment practice has occurred or is occurring may file a charge respecting such practice or violation with the Special Counsel (appointed under subsection (c)). Charges shall be in writing under oath or affirmation and shall contain such information as the Attorney General requires. The Special Counsel by certified mail shall serve a notice of the charge (including the date, place, and circumstances of the alleged unfair immigration-related employment practice) on the person or entity involved within 10 days.

(2) NO OVERLAP WITH EEOC COMPLAINTS.—No charge may be filed respecting an unfair immigration-related employment practice described in subsection (a)(1)(A) if a charge with respect to that practice based on the same set of facts has been filed with the Equal Employment Opportunity Commission under title VII of the Civil Rights Act of 1964, unless the charge is dismissed as being outside the scope of such title. No charge respecting an employment practice may be filed with the Equal Employment Opportunity Commission under such title if a charge with respect to such practice based on the same set of facts has been filed under this subsection, unless the charge is dismissed under this section as being outside the scope of this section.

(c) SPECIAL COUNSEL.—

(1) APPOINTMENT.—The President shall appoint, by and with the advice and consent of the Senate, a Special Counsel for Immigration-Related Unfair Employment Practices (hereinafter in this section referred to as the "Special Counsel") within the Department of Justice to serve for a term of four years. In the case of a vacancy in the office of the Special Counsel the President may designate the officer or employee who shall act as Special Counsel during such vacancy.

(2) DUTIES.—The Special Counsel shall be responsible for investigation of charges and issuance of complaints under this section and in respect of the prosecution of all such complaints before administrative law judges and the exercise of certain functions under subsection (j)(1).

(3) COMPENSATION.—The Special Counsel is entitled to receive compensation at a rate not to exceed the rate now or hereafter provided for grade GS-17 of the General Schedule^{215a}, under section 5332 of title 5, United States Code.

^{215a} Under § 101(c)(1)(A)(iii) of the Treasury, Postal Service and General Government Appropriations Act, 1991 (P.L. 101-509, 105 Stat. 1442, Nov. 5, 1990), the reference in this section to GS-17 of the General Schedule is considered a reference to a rate of pay for a position

(4) REGIONAL OFFICES.—The Special Counsel, in accordance with regulations of the Attorney General, shall establish such regional offices as may be necessary to carry out his duties.

(d) INVESTIGATION OF CHARGES.—

(1) BY SPECIAL COUNSEL.—The Special Counsel shall investigate each charge received and, within 120 days of the date of the receipt of the charge, determine whether or not there is reasonable cause to believe that the charge is true and whether or not to bring a complaint with respect to the charge before an administrative law judge. The Special Counsel may, on his own initiative, conduct investigations respecting unfair immigration-related employment practices and, based on such an investigation and subject to paragraph (3), file a complaint before such a judge.

(2)²¹⁶ PRIVATE ACTIONS.—If the Special Counsel, after receiving such a charge respecting an unfair immigration-related employment practice which alleges knowing and intentional discriminatory activity or a pattern or practice of discriminatory activity, has not filed a complaint before an administrative law judge with respect to such charge within such 120-day period, the Special Counsel shall notify the person making the charge of the determination not to file such a complaint during such period and the person making the charge may (subject to paragraph (3)) file a complaint directly before such a judge within 90 days after the date of receipt of the notice. The Special Counsel's failure to file such a complaint within such 120-day period shall not affect the right of the Special Counsel to investigate the charge or to bring a complaint before an administrative law judge during such 90-day period.

(3) TIME LIMITATIONS ON COMPLAINTS.—No complaint may be filed respecting any unfair immigration-related employment practice occurring more than 180 days prior to the date of the filing of the charge with the Special Counsel. This subparagraph shall not prevent the subsequent amending of a charge or complaint under subsection (e)(1).

(e) HEARINGS.—

(1) NOTICE.—Whenever a complaint is made that a person or entity has engaged in or is engaging in any such unfair immigration-related employment practice, an administrative law judge shall have power to issue and cause to be served upon such person or entity a copy of the complaint and a notice of hearing before the judge at a place therein fixed, not less than five days after the serving of the complaint. Any such complaint may be amended by the judge conducting the hearing, upon the motion of the party filing the complaint, in the judge's discretion at any time prior to the issuance of an order based thereon. The person or entity so complained of shall

classified above GS-15 pursuant to section 5108 of title 5, United States Code, as amended by section 102(b)(2) of that Act.

²¹⁶ Paragraph (2) was amended by § 537(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5056), applicable to charges received on or after November 29, 1990. The amendments provided for Special Counsel notice of a determination not to file a complaint; established a 90-day period in which the person may file the complaint, and clarified that the Special Counsel may conduct investigations and bring charges after the 120-day period.

have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint.

(2) JUDGES HEARING CASES.—Hearings on complaints under this subsection shall be considered before administrative law judges who are specially designated by the Attorney General as having special training respecting employment discrimination and, to the extent practicable, before such judges who only consider cases under this section.

(3) COMPLAINANT AS PARTY.—Any person filing a charge with the Special Counsel respecting an unfair immigration-related employment practice shall be considered a party to any complaint before an administrative law judge respecting such practice and any subsequent appeal respecting that complaint. In the discretion of the judge conducting the hearing, any other person may be allowed to intervene in the proceeding and to present testimony.

(f) TESTIMONY AND AUTHORITY OF HEARING OFFICERS.—

(1) TESTIMONY.—The testimony taken by the administrative law judge shall be reduced to writing. Thereafter, the judge, in his discretion, upon notice may provide for the taking of further testimony or hear argument.

(2) AUTHORITY OF ADMINISTRATIVE LAW JUDGES.—In conducting investigations and hearings under this subsection^{216a} and in accordance with regulations of the Attorney General, the Special Counsel and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated. The administrative law judges by subpoena may compel the attendance of witnesses and the production of evidence at any designated place or hearing. In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the administrative law judge, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

(g) DETERMINATIONS.—

(1) ORDER.—The administrative law judge shall issue and cause to be served on the parties to the proceeding an order, which shall be final unless appealed as provided under subsection (i).

(2) ORDERS FINDING VIOLATIONS.—

(A) IN GENERAL.—If, upon the preponderance of the evidence, an administrative law judge determines that any person or entity named in the complaint has engaged in or is engaging in any such unfair immigration-related employment practice, then the judge shall state his findings of fact and shall issue and cause to be served on such person or entity an order which requires such person or entity to cease and desist from such unfair immigration-related employment practice.

^{216a} Probably should be this "section".

(B) CONTENTS OF ORDER.—Such an order also may require the person or entity—

(i) to comply with the requirements of section 274A(b) with respect to individuals hired (or recruited or referred for employment for a fee) during a period of up to three years;

(ii) to retain for the period referred to in clause (i) and only for purposes consistent with section 274A(b)(5), the name and address of each individual who applies, in person or in writing, for hiring for an existing position, or for recruiting or referring for a fee, for employment in the United States;

(iii) to hire individuals directly and adversely affected, with or without back pay;

(iv)(I)²¹⁷ except as provided in subclauses (II) through (IV), to pay a civil penalty of not less than \$250 and not more than \$2,000 for each individual discriminated against,

(II) except as provided in subclauses (III) and (IV), in the case of a person or entity previously subject to a single order under this paragraph, to pay a civil penalty of not less than \$2,000 and not more than \$5,000 for each individual discriminated against,

(III) except as provided in subclause (IV), in the case of a person or entity previously subject to more than one order under this paragraph, to pay a civil penalty of not less than \$3,000 and not more than \$10,000 for each individual discriminated against, and

(IV) in the case of an unfair immigration-related employment practice described in subsection (a)(6), to pay a civil penalty of not less than \$100 and not more than \$1,000 for each individual discriminated against;

(v)²¹⁸ to post notices to employees about their rights under this section and employers' obligations under section 274A;

(vi) to educate all personnel involved in hiring and complying with this section or section 274A about the requirements of this section or such section;

(vii) to remove (in an appropriate case) a false performance review or false warning from an employee's personnel file; and

(viii) to lift (in an appropriate case) any restrictions on an employee's assignments, work shifts, or movements.

(C) LIMITATION ON BACK PAY REMEDY.—In providing a remedy under subparagraph (B)(iii), back pay liability shall not accrue from a date more than two years prior to

²¹⁷ Clause (iv) was amended in its entirety by § 536(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5055), applicable to unfair immigration-related employment practices occurring after November 29, 1990. Previously clause (iv) provided for a civil penalty of not more than \$1,000 (in the first instance) or \$2,000 (for subsequent instances) for each individual discriminated against.

²¹⁸ Clauses (v) through (viii) were added by § 539(a)(3) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5056), applicable to orders for practices occurring on or after November 29, 1990.

the date of the filing of a charge with the Special Counsel^{218a}. Interim earnings or amounts earnable with reasonable diligence by the individual or individuals discriminated against shall operate to reduce the back pay otherwise allowable under such subparagraph. No order shall require the hiring of an individual as an employee or the payment to an individual of any back pay, if the individual was refused employment for any reason other than discrimination on account of national origin or citizenship status.

(D) TREATMENT OF DISTINCT ENTITIES.—In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

(3) ORDERS NOT FINDING VIOLATIONS.—If upon the preponderance of the evidence an administrative law judge determines that the person or entity named in the complaint has not engaged and is not engaging in any such unfair immigration-related employment practice, then the judge shall state his findings of fact and shall issue an order dismissing the complaint.

(h) AWARDING OF ATTORNEY'S FEES.—In any complaint respecting an unfair immigration-related employment practice, an administrative law judge, in the judge's discretion, may allow a prevailing party, other than the United States, a reasonable attorney's fee, if the losing party's argument is without reasonable foundation in law and fact.

(i) REVIEW OF FINAL ORDERS.—

(1) IN GENERAL.—Not later than 60 days after the entry of such final order, any person aggrieved by such final order may seek a review of such order in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

(2) FURTHER REVIEW.—Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that the same shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

(j) COURT ENFORCEMENT OF ADMINISTRATIVE ORDERS.—

(1) IN GENERAL.—If an order of the agency is not appealed under subsection (i)(1), the Special Counsel (or, if the Special Counsel fails to act, the person filing the charge) may petition the United States district court for the district in which a violation of the order is alleged to have occurred, or in which the respondent resides or transacts business, for the enforcement

^{218a} § 219(q) the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4317, Oct. 25, 1994) substituted "Special Counsel" for "administrative law judge".

of the order of the administrative law judge, by filing in such court a written petition praying that such order be enforced.

(2) COURT ENFORCEMENT ORDER.—Upon the filing of such petition, the court shall have jurisdiction to make and enter a decree enforcing the order of the administrative law judge. In such a proceeding, the order of the administrative law judge shall not be subject to review.

(3) ENFORCEMENT DECREE IN ORIGINAL REVIEW.—If, upon appeal of an order under subsection (i)(1), the United States court of appeals does not reverse such order, such court shall have the jurisdiction to make and enter a decree enforcing the order of the administrative law judge.

(4) AWARDING OF ATTORNEY'S FEES.—In any judicial proceeding under subsection (i) or this subsection, the court, in its discretion, may allow a prevailing party, other than the United States, a reasonable attorney's fee as part of costs but only if the losing party's argument is without reasonable foundation in law and fact.

(k) TERMINATION DATES.—

(1) This section shall not apply to discrimination in hiring, recruiting, referring, or discharging of individuals occurring after the date of any termination of the provisions of section 274A, under subsection (l) of that section.

(2) The provisions of this section shall terminate 30 calendar days after receipt of the last report required to be transmitted under section 274A(j) if—

(A) the Comptroller General determines, and so reports in such report that—

(i) no significant discrimination has resulted, against citizens or nationals of the United States or against any eligible workers seeking employment, from the implementation of section 274A, or

(ii) such section has created an unreasonable burden on employers hiring such workers; and

(B) there has been enacted, within such period of 30 calendar days, a joint resolution stating in substance that the Congress approves the findings of the Comptroller General contained in such report.

The provisions of subsections (m) and (n) of section 274A shall apply to any joint resolution under subparagraph (B) in the same manner as they apply to a joint resolution under subsection (l) of such section.

(l) DISSEMINATION OF INFORMATION CONCERNING ANTI-DISCRIMINATION PROVISIONS.—²¹⁹

(1) Not later than 3 months after the date of the enactment of this subsection, the Special Counsel, in cooperation with the chairman of the Equal Employment Opportunity Commission, the Secretary of Labor, and the Administrator of the Small Business Administration, shall conduct a campaign to disseminate information respecting the rights and remedies prescribed under this section and under title VII of the Civil

²¹⁹ Subsection (l) was added by § 531 of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5054).

Rights Act of 1964 in connection with unfair immigration-related employment practices. Such campaign shall be aimed at increasing the knowledge of employers, employees, and the general public concerning employer and employee rights, responsibilities, and remedies under this section and such title.

(2) In order to carry out the campaign under this subsection, the Special Counsel—

(A) may, to the extent deemed appropriate and subject to the availability of appropriations, contract with public and private organizations for outreach activities under the campaign, and

(B) shall consult with the Secretary of Labor, the chairman of the Equal Employment Opportunity Commission, and the heads of such other agencies as may be appropriate.

(3) There are authorized to be appropriated to carry out this subsection \$10,000,000 for each fiscal year (beginning with fiscal year 1991).

PENALTIES FOR DOCUMENT FRAUD ²²⁰

SEC. 274C. [8 U.S.C. 1324c] (a) ACTIVITIES PROHIBITED.—It is unlawful for any person or entity knowingly—

(1) to forge, counterfeit, alter, or falsely make any document for the purpose of satisfying a requirement of this Act,

(2) to use, attempt to use, possess, obtain, accept, or receive or to provide any forged, counterfeit, altered, or falsely made document in order to satisfy any requirement of this Act,

(3) to use or attempt to use or to provide or attempt to provide any document lawfully issued to a person other than the possessor (including a deceased individual) for the purpose of satisfying a requirement of this Act, or

(4) to accept or receive or to provide any document lawfully issued to a person other than the possessor (including a deceased individual) for the purpose of complying with section 274A(b).

(b) EXCEPTION.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under chapter 224 of title 18, United States Code ^{220a}.

(c) CONSTRUCTION.—Nothing in this section shall be construed to diminish or qualify any of the penalties available for activities prohibited by this section but proscribed as well in title 18, United States Code.

(d) ENFORCEMENT.—

²²⁰ Section 274C was inserted by § 544(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5059), effective for persons or entities that have committed violations on or after November 29, 1990.

^{220a} § 219(r) the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4317, Oct. 25, 1994) substituted reference to chapter 224 of title 18 for reference to title V of Organized Crime Control Act of 1970, effective November 29, 1990, under § 219(dd) of P.L. 103-416.

(1) **AUTHORITY IN INVESTIGATIONS.**—In conducting investigations and hearings under this subsection—

(A) immigration officers and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated, and

(B) administrative law judges, may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the Attorney General, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

(2) **HEARING.**—

(A) **IN GENERAL.**—Before imposing an order described in paragraph (3) against a person or entity under this subsection for a violation of subsection (a), the Attorney General shall provide the person or entity with notice and upon request made within a reasonable time (of not less than 30 days, as established by the Attorney General) or the date of the notice, a hearing respecting the violation.

(B) **CONDUCT OF HEARING.**—Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. The hearing shall be held at the nearest practicable place to the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the Attorney General's imposition of the order shall constitute a final and unappealable order.

(C) **ISSUANCE OF ORDERS.**—If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity has violated subsection (a), the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (3).

(3) **CEASE AND DESIST ORDER WITH CIVIL MONEY PENALTY.**—With respect to a violation of subsection (a), the order under this subsection shall require the person or entity to cease and desist from such violations and to pay a civil penalty in an amount of—

(A) not less than \$250 and not more than \$2,000 for each document used, accepted, or created and each instance of use, acceptance, or creation, or

(B) in the case of a person or entity previously subject to an order under this paragraph, not less than \$2,000 and not more than \$5,000 for each document used, accepted, or created and each instance of use, acceptance, or creation.

In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment, without reference to the practices of, and not under the control of or common control with, another sub

division, each such subdivision shall be considered a separate person or entity.

(4) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge shall become the final agency decision and order of the Attorney General unless, within 30 days, the Attorney General modifies or vacates the decision and order, in which case the decision and order of the Attorney General shall become a final order under this subsection.

(5) JUDICIAL REVIEW.—A person or entity adversely affected by a final order under this section may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(6) ENFORCEMENT OF ORDERS.—If a person or entity fails to comply with a final order issued under this section against the person or entity, the Attorney General shall file a suit to seek compliance with the order in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

ENTRY OF ALIEN AT IMPROPER TIME OR PLACE; MISREPRESENTATION AND CONCEALMENT OF FACTS

SEC. 275. [8 U.S.C. 1325] (a) Any alien who (1) enters or attempts to enter²²¹ the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) attempts to enter²²¹ or obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offense, be fined under title 18, United States Code, or imprisoned not more than 6 months, or both, and, for a subsequent commission of any such offense, be fined under title 18, United States Code, or imprisoned not more than 2 years, or both.²²¹

(b) An individual who knowingly enters into a marriage for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years, or fined not more than \$250,000, or both.

(c)²²² Any individual who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years, fined in accordance with title 18, United States Code, or both.

²²¹ § 543(b)(2) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5059) made this subsection applicable to attempts to enter and increased the criminal fine for the first commission from \$500 to \$2,000, effective for actions taken after November 29, 1990. The first commission is classified as a Class B misdemeanor under § 3559(a) of title 18, United States Code, and, under § 3571(b) of title 18, United States Code, the maximum fine is the *greater* of the amount specified under this section or \$25,000. The subsequent commission is classified as a Class E felony under § 3559(a) of title 18, United States Code, and, under § 3571(b) of title 18, United States Code, the maximum fine is the *greater* of the amount specified under this section or \$250,000.

²²² Subsection (c) was added by § 121(b)(3) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 4994).

REENTRY OF DEPORTED ALIEN

SEC. 276. [8 U.S.C. 1326] (a) Subject to subsection (b), any alien who—

(1) has been arrested and deported or excluded and deported, and thereafter

(2) enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien's reapplying for admission; or (B) with respect to an alien previously excluded and deported, unless such alien shall establish that he was not required to obtain such advance consent under this or any prior Act, shall be fined under title 18, United States Code, or imprisoned not more than 2 years, or both.²²³

(b)^{223a} Notwithstanding subsection (a), in the case of any alien described in such subsection—

(1) whose deportation was subsequent to a conviction for commission of three or more misdemeanors involving drugs, crimes against the person, or both, or a felony (other than an aggravated felony), such alien shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both; or

(2) whose deportation was subsequent to a conviction for commission of an aggravated felony, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

For the purposes of this subsection, the term "deportation" includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.

AIDING OR ASSISTING CERTAIN ALIENS TO ENTER THE UNITED STATES

SEC. 277. [8 U.S.C. 1327] Any person who knowingly aids or assists any alien excludable under section 212(a)(2) (insofar as an alien excludable under such section has been convicted of an aggravated felony) or 212(a)(3) (other than subparagraph (E) thereof)²²⁴ to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such alien to enter the United States, shall be fined under title 18, United States Code, or imprisoned not more than 10 years, or both.²²⁵

²²³ This crime is classified as a Class E felony under § 3559(a) of title 18, United States Code, and, under §§ 3571(b) and 3571(b) of title 18, United States Code, the maximum fine is the greater of the amount specified under this section or \$250,000. The dollar amount of the fine was omitted by § 543(b)(3) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5059).

^{223a} § 130001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 2023, Sept. 13, 1994) amended this subsection to cover convictions of 3 or more misdemeanors, to add 5 years to the maximum penalties, and to add the definition of "deportation".

²²⁴ References to paragraphs (9), (10) and (23) were inserted by § 7346(a) of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690, Nov. 18, 1988), applicable to any aid or assistance which occurs on or after November 18, 1988. § 603(a)(16) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5084) struck "212(a)(9), (10), (23) (insofar as an alien excludable under any such paragraph has in addition been convicted of an aggravated felony), (27), (28), or (29)" and inserted "212(a)(2) (insofar as an alien excludable under such section has been convicted of an aggravated felony) or 212(a)(3) (other than subparagraph (E) thereof)".

²²⁵ The criminal penalty was increased from 5 to 10 years imprisonment by § 543(b)(4) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5059), effective for actions taken after November 29, 1990. This crime is classified as a Class D felony under § 3559(a) of

IMPORTATION OF ALIEN FOR IMMORAL PURPOSE

SEC. 278. [8 U.S.C. 1328] The importation into the United States of any alien for the purpose of prostitution, or for any other immoral purpose, is hereby forbidden. Whoever shall, directly or indirectly, import, or attempt to import into the United States any alien for the purpose of prostitution or for any other immoral purpose, or shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose, any alien, in pursuance of such illegal importation, shall be fined under title 18, United States Code, or imprisoned not more than 10 years, or both.²²⁶ The trial and punishment of offenses under this section may be in any district to or into which such alien is brought in pursuance of importation by the person or persons accused, or in any district in which a violation of any of the provisions of this section occurs. In all prosecutions under this section, the testimony of a husband or wife shall be admissible and competent evidence against each other.

JURISDICTION OF DISTRICT COURTS

SEC. 279. [8 U.S.C. 1329] The district courts of the United States shall have jurisdiction of all causes, civil and criminal, arising under any of the provisions of this title. It shall be the duty of the United States attorney of the proper district to prosecute every such suit when brought by the United States. Notwithstanding any other law, such prosecutions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with a violation under section 275 or 276 may be apprehended. No suit or proceeding for a violation of any of the provisions of this title shall be settled, compromised, or discontinued without the consent of the court in which it is pending and any such settlement, compromise, or discontinuance shall be entered of record with the reasons therefor.

COLLECTION OF PENALTIES AND EXPENSES

SEC. 280. [8 U.S.C. 1330] (a) Notwithstanding any other provisions of this title, the withholding or denial of clearance of or a lien upon any vessel or aircraft provided for in section 231, 237, 239, 243, 251, 253, 254, 255, 256, 271, 272, or 273 of this title shall not be regarded as the sole and exclusive means or remedy for the enforcement of payments of any fine, penalty or expenses imposed or incurred under such sections, but, in the discretion of the Attorney General, the amount thereof may be recovered by civil suit, in the name of the United States, from any person made liable under any of such sections.

title 18, United States Code, and, under § 3571(b) of title 18, United States Code, the maximum fine is the *greater* of the amount specified under this section or \$250,000.

²²⁶ This crime is classified as a Class D felony under § 3559(a) of title 18, United States Code, and, under § 3571(b) of title 18, United States Code, the maximum fine is the *greater* of the amount specified under this section or \$250,000. § 543(b)(5) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5059) deleted any reference to the fine level, effective for actions taken after November 29, 1990.

(b)²²⁷ Notwithstanding section 3302 of title 31, United States Code, the increase in penalties collected resulting from the amendments made by sections 203(b), 543(a), and 544 of the Immigration Act of 1990 shall be credited to the appropriation—

(1) for the Immigration and Naturalization Service for activities that enhance enforcement of provisions of this title, including—

(A) the identification, investigation, and apprehension of criminal aliens,

(B) the implementation of the system described in section 242(a)(3)(A), and

(C) for the repair, maintenance, or construction on the United States border, in areas experiencing high levels of apprehensions of illegal aliens, of structures to deter illegal entry into the United States; and

(2) for the Executive Office for Immigration Review in the Department of Justice for the purpose of removing the backlogs in the preparation of transcripts of deportation proceedings conducted under section 242.

CHAPTER 9—MISCELLANEOUS

NONIMMIGRANT VISA FEES

SEC. 281. [8 U.S.C. 1351] The fees for the furnishing and verification of applications for visas by nonimmigrants of each foreign country and for the issuance of visas to nonimmigrants of each foreign country shall be prescribed by the Secretary of State, if practicable, in amounts corresponding to the total of all visa, entry, residence, or other similar fees, taxes, or charges assessed or levied against nationals of the United States by the foreign countries of which such nonimmigrants are nationals or stateless residents: *Provided*, That nonimmigrant visas issued to aliens coming to the United States in transit to and from the headquarters district of the United Nations in accordance with the provisions of the Headquarters Agreement shall be gratis.

PRINTING OF REENTRY PERMITS AND BLANK FORMS OF MANIFESTS AND CREW LISTS

SEC. 282. [8 U.S.C. 1352] (a) Reentry permits issued under section 223 shall be printed on distinctive safety paper and shall be prepared and issued under regulations prescribed by the Attorney General.

(b) The Public Printer is authorized to print for sale to the public by the Superintendent of Documents, upon prepayment, copies of blank forms of manifests and crew lists and such other forms as may be prescribed and authorized by the Attorney General to be sold pursuant to the provisions of this title.

²²⁷ Subsection (b) was added by § 542(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5057), applicable to fines and penalties collected on or after January 1, 1991.

TRAVEL EXPENSES AND EXPENSE OF TRANSPORTING REMAINS OF OFFICERS AND EMPLOYEES WHO DIE OUTSIDE THE UNITED STATES

SEC. 283. [8 U.S.C. 1353] When officers, inspectors, or other employees of the Service are ordered to perform duties in a foreign country, or are transferred from one station to another, in the United States or in a foreign country, or while performing duties in any foreign country become eligible for voluntary retirement and return to the United States, they shall be allowed their traveling expenses in accordance with such regulations as the Attorney General may deem advisable, and they may also be allowed, within the discretion and under written orders of the Attorney General, the expenses incurred for the transfer of their wives and dependent children, their household effects and other personal property, including the expenses for packing, crating, freight, unpacking, temporary storage, and drayage thereof in accordance with subchapter II of chapter 57 of title 5, United States Code. The expense of transporting the remains of such officers, inspectors, or other employees who die while in, or in transit to, a foreign country in the discharge of their official duties to their former homes in this country for interment, and the ordinary and necessary expenses of such interment and of preparation for shipment, are authorized to be paid on the written order of the Attorney General.

[The following provisions, relating to payment for overtime services for immigration officers and employees and printed in 8 point type, are included at this point in title 8, United States Code, but are *not* part of the Immigration and Nationality Act:

The Act of March 2, 1931 (ch. 368, 46 Stat. 1467) as amended [8 U.S.C. 1353a, 1353b] provides as follows:

That the Secretary of Labor [Attorney General] shall fix a reasonable rate of extra compensation for overtime services of immigration officers and employees of the Immigration [and Naturalization] Service who may be required to remain on duty between the hours of five o'clock postmeridian and eight o'clock antemeridian, or on Sundays or holidays, to perform duties in connection with the examination and landing of passengers and crews of steamships, trains, airplanes, or other vehicles, arriving in the United States from a foreign port by water, land, or air, such rates to be fixed on a basis of one-half day's additional pay for each two hours or fraction thereof of at least one hour that the overtime extends beyond five o'clock postmeridian (but not to exceed two and one-half days' pay for the full period from five o'clock postmeridian to eight o'clock antemeridian) and two additional days' pay for Sunday and holiday duty; in those ports where the customary working hours are other than those heretofore mentioned, the Secretary of Labor [Attorney General] is vested with authority to regulate the hours of immigration employees so as to agree with the prevailing working hours in said ports, but nothing contained in this section shall be construed in any manner to affect or alter the length of a working day for immigration employees or the overtime pay herein fixed.

SEC. 2. The said extra compensation shall be paid by the master, owner, agent, or consignee of such vessel or other conveyance arriving in the United States from a foreign port to the Secretary of Labor [Attorney General] who shall pay the same to the several immigration officers and employees entitled thereto as provided in this Act. Such extra compensation shall be paid if such officers or employees have been ordered to report for duty and have so reported, whether the actual inspection or examination of passengers or crew takes place or not: *Provided*, That this section shall not apply to the inspection at designated ports of entry of passengers arriving by international ferries, bridges, or tunnels, or by aircraft, railroad trains, or vessels on the Great Lakes and connecting waterways, when operating on regular schedules.

[NOTE.—The restrictions on premium pay under subchapter V of chapter 55 of title 5, U.S. Code, do not prevent payment for overtime under these previous sections pursuant to § 5549 of that title.

Part of section 1 of the Act of March 4, 1921 (41 Stat. 1424, as amended; 8 U.S.C. 1353c):

Nothing in section 1914 of Title 18, United States Code, relative to augmenting salaries of Government officials from outside sources shall prevent receiving reimbursements for services of immigration officials incident to the inspection of aliens in foreign contiguous territory, and such reimbursement shall be credited to the appropriation, "Immigration and Naturalization Service—Salaries and Expenses".

[NOTE.—Under § 2 of Pub. L. 87-849, the exemption from § 1914 of title 18, U.S. Code, provided above is deemed an exemption from § 209 of title 18, U.S. Code.]

[NOTE.—Section 80503(a)(2) of title 49, U.S. Code effectively limits the maximum charge for overtime to \$25 per private plane or vessel.]

The Act of August 22, 1940 (ch. 688, 54 Stat. 858), as amended [8 U.S.C. 1353d] provides as follows:

That moneys collected on or after July 1, 1941, as extra compensation for overtime service of immigration officers and employees of the Immigration Service pursuant to the Act of March 2, 1931 (46 Stat. 1467), shall be deposited in the Treasury of the United States to the credit of the appropriation for the payment of salaries, field personnel of the Immigration and Naturalization Service, and the appropriation so credited shall be available for the payment of such compensation.

MEMBERS OF THE ARMED FORCES

SEC. 284. [8 U.S.C. 1354] Nothing contained in this title shall be construed so as to limit, restrict, deny, or affect the coming into or departure from the United States of an alien member of the Armed Forces of the United States who is in the uniform of, or who bears documents identifying him as a member of, such Armed Forces, and who is coming to or departing from the United States under official orders or permit of such Armed Forces: *Provided*, That nothing contained in this section shall be construed to give to or confer upon any such alien any other privileges, rights, benefits, exemptions, or immunities under this Act, which are not otherwise specifically granted by this Act.

DISPOSAL OF PRIVILEGES AT IMMIGRANT STATIONS

SEC. 285. [8 U.S.C. 1355] (a) Subject to such conditions and limitations as the Attorney General shall prescribe, all exclusive privileges of exchanging money, transporting passengers or baggage, keeping eating houses, or other like privileges in connection with any United States immigrant station, shall be disposed of to the lowest responsible and capable bidder (other than an alien) in accordance with the provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), and for the use of Government property in connection with the exercise of such exclusive privileges a reasonable rental may be charged. The feeding of aliens, or the furnishing of any other necessary service in connection with any United States immigrant station, may be performed by the Service without regard to the foregoing provisions of this subsection if the Attorney General shall find that it would be advantageous to the Government in terms of economy and efficiency. No intoxicating liquors shall be sold at any immigrant station.

(b) Such articles determined by the Attorney General to be necessary to the health and welfare of aliens detained at any immigrant station, when not otherwise readily procurable by such aliens, may be sold at reasonable prices to such aliens through Government canteens operated by the Service, under such conditions and limitations as the Attorney General shall prescribe.

(c) All rentals or other receipts accruing from the disposal of privileges, and all moneys arising from the sale of articles through

Service-operated canteens, authorized by this section, shall be covered into the Treasury to the credit of the appropriation for the enforcement of this title.

DISPOSITION OF MONEYS COLLECTED UNDER THE PROVISIONS OF THIS TITLE

SEC. 286. [8 U.S.C. 1356] (a) All moneys paid into the Treasury to reimburse the Service for detention, transportation, hospitalization, and all other expenses of detained aliens paid from the appropriation for the enforcement of this Act, and all moneys paid into the Treasury to reimburse the Service for expenses of landing stations referred to in section 238(b) paid by the Service from the appropriation for the enforcement of this Act, shall be credited to the appropriation for the enforcement of this Act for the fiscal year in which the expenses were incurred.

(b) Moneys expended from appropriations for the Service for the purchase of evidence and subsequently recovered shall be reimbursed to the current appropriation for the Service.

(c) Except as otherwise provided in subsection (a) and subsection (b), or in any other provision of this title, all moneys received in payment of fees and administrative fines and penalties under this title shall be covered into the Treasury as miscellaneous receipts: *Provided, however,* That all fees received from applicants residing in the Virgin Islands of the United States, and in Guam, required to be paid under section 281, shall be paid over to the Treasury of the Virgin Islands and to the Treasury of Guam, respectively.

(d) SCHEDULE OF FEES.—In addition to any other fee authorized by law, the Attorney General shall charge and collect \$6^{227a} per individual for the immigration inspection of each passenger arriving at a port of entry in the United States, or for the preinspection of a passenger in a place outside of the United States prior to such arrival, aboard a commercial aircraft or commercial vessel.

(e) LIMITATIONS OF FEES.—(1) No fee shall be charged under subsection (d) for immigration inspection or preinspection provided in connection with the arrival of any passenger, other than aircraft passengers,²²⁸ whose journey originated in the following:

(A) Canada,

(B) Mexico,

(C) a territory or possession of the United States, or

(D) any adjacent island (within the meaning of section 101(b)(5)).

(2) No fee may be charged under subsection (d) with respect to the arrival of any passenger—

(A) who is in transit to a destination outside the United States, and

^{227a} Pub. L. 103-121 (107 Stat. 1161, Oct. 27, 1993), struck "\$5" and inserted "\$6" in section 286 of the Immigration and Nationality Act "of 1952".

²²⁸ § 210(a)(1) of the Department of Justice Appropriations Act, 1991 (Pub. L. 101-515, Nov. 5, 1990, 104 Stat. 2120) inserted the phrase "other than aircraft passengers." This amendment was applicable, under § 210(b) of that Act, to fees charged only with respect to immigration inspection or preinspection services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after November 30, 1990.

(B) for whom immigration inspection services are not provided.

(f) COLLECTION.—(1) Each person that issues a document or ticket to an individual for transportation by a commercial vessel or commercial aircraft into the United States shall—

(A) collect from that individual the fee charged under subsection (d) at the time the document or ticket is issued; and

(B) identify on that document or ticket the fee charged under subsection (d) as a Federal inspection fee.

(2) If—

(A) a document or ticket for transportation of a passenger into the United States is issued in a foreign country; and

(B) the fee charged under subsection (d) is not collected at the time such document or ticket is issued;

the person providing transportation to such passenger shall collect such fee at the time such passenger departs from the United States and shall provide such passenger a receipt for the payment of such fee.

(3) The person who collects fees under paragraph (1) or (2) shall remit those fees to the Attorney General at any time before the date that is thirty-one days after the close of the calendar quarter in which the fees are collected,²²⁹ except the fourth quarter payment for fees collected from airline passengers shall be made on the date that is ten days before the end of the fiscal year, and the first quarter payment shall include any collections made in the preceding quarter that were not remitted with the previous payment. Regulations issued by the Attorney General under this subsection with respect to the collection of the fees charged under subsection (d) and the remittance of such fees to the Treasury of the United States shall be consistent with the regulations issued by the Secretary of the Treasury for the collection and remittance of the taxes imposed by subchapter C of chapter 33 of the Internal Revenue Code of 1986, but only to the extent the regulations issued with respect to such taxes do not conflict with the provisions of this section.

(g) PROVISION OF IMMIGRATION INSPECTION AND PREINSPECTION SERVICES.—Notwithstanding the Act of March 2, 1931, 46 Stat. 1467 (8 U.S.C. 1353b), or any other provision of law, the immigration services required to be provided to passengers upon arrival in the United States on scheduled airline flights shall be adequately provided, within²³⁰ forty-five minutes of their presentation for inspection, when needed and at no cost (other than the fees imposed under subsection (d)) to airlines and airline passengers at:

(1) immigration serviced airports, and

²²⁹ § 210(a)(2) of the Department of Justice Appropriations Act, 1991 (Pub. L. 101-515, Nov. 5, 1990, 104 Stat. 2120), as amended by § 309(a)(2)(B) of Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1758), inserted the phrase “, except the fourth quarter payment for fees collected from airline passengers shall be made on the date that is ten days before the end of the fiscal year, and the first quarter payment shall include any collections made in the preceding quarter that were not remitted with the previous payment” after “in which the fees are collected”. The amendment was effective for fees charged in regard to documents or tickets issued after November 30, 1990.

²³⁰ § 210(a)(3) of the Department of Justice Appropriations Act, 1991 (Pub. L. 101-515, Nov. 5, 1990, 104 Stat. 2120) inserted the phrase “, within forty-five minutes of their presentation for inspection,”.

(2) places located outside of the United States at which an immigration officer is stationed for the purpose of providing such immigration services.

(h) DISPOSITION OF RECEIPTS.—(1)(A)²³¹ There is established in the general fund of the Treasury a separate account which shall be known as the “Immigration User Fee Account”. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration User Fee Account all fees collected under subsection (d) of this section, to remain available until expended[.] At the end of each 2-year period, beginning with the creation of this account, the Attorney General, following a public rulemaking with opportunity for notice and comment, shall submit a report to the Congress concerning the status of the account, including any balances therein, and recommend any adjustment in the prescribed fee that may be required to ensure that the receipts collected from the fee charged for the succeeding two years equal, as closely as possible, the cost of providing these services.

(B) Notwithstanding any other provisions of law, all civil fines or penalties collected pursuant to sections 271 and 273 of this title and all liquidated damages and expenses collected pursuant to this Act shall be deposited in the Immigration User Fee Account.

(2)(A) The Secretary of the Treasury shall refund out of the Immigration User Fee Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General in providing immigration inspection and preinspection services for commercial aircraft or vessels and in—

(i) providing overtime immigration inspection services for commercial aircraft or vessels;

(ii) administration of debt recovery, including the establishment and operation of a national collections office;

(iii) expansion, operation and maintenance of information systems for nonimmigrant control and debt collection;

(iv) detection of fraudulent documents used by passengers traveling to the United States; and

(v)^{231a} providing detention and deportation services for: excludable aliens arriving on commercial aircraft and vessels; and any alien who is excludable under section 212(a) who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry.

(vi) providing exclusion and asylum proceedings at air or sea ports-of-entry for: excludable aliens arriving on commercial aircraft and vessels including immigration exclusion proceedings resulting from presentation of fraudulent documents and failure to present documentation; and any

²³¹ § 210(a)(4) of the Department of Justice Appropriations Act, 1991 (Pub. L. 101-515, Nov. 5, 1990, 104 Stat. 2120) struck the first 2 sentences of this subparagraph and inserted the 2 sentences shown; the new second sentence did not have a period at the end. Previously those sentences read as follows: “All of the fees collected under subsection (d) shall be deposited in a separate account within the general fund of the Treasury of the United States, to remain available until expended. Such account shall be known as the ‘Immigration User Fee Account’.”

^{231a} Clauses (v) and (vi) were inserted in section 286 of the Immigration and Nationality Act “of 1952” by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (P.L. 103-121, 107 Stat. 1161, Oct. 27, 1993); the indentation should be moved 2 ems to the left, the colon and semicolon should be omitted, and the final punctuation of clause (v) should be “; and”.

alien who is excludable under section 212(a) who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry.

(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).

(i) REIMBURSEMENT.—Notwithstanding any other provision of law, the Attorney General is authorized to receive reimbursement from the owner, operator, or agent of a private or commercial aircraft or vessel, or from any airport or seaport authority for expenses incurred by the Attorney General in providing immigration inspection services which are rendered at the request of such person or authority (including the salary and expenses of individuals employed by the Attorney General to provide such immigration inspection services). The Attorney General's authority to receive such reimbursement shall terminate immediately upon the provision for such services by appropriation.

(j) REGULATIONS.—The Attorney General may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

(k) ADVISORY COMMITTEE.—In accordance with the provisions of the Federal Advisory Committee Act, the Attorney General shall establish an advisory committee, whose membership shall consist of representatives from the airline and other transportation industries who may be subject to any fee or charge authorized by law or proposed by the Immigration and Naturalization Service for the purpose of covering expenses incurred by the Immigration and Naturalization Service. The advisory committee shall meet on a periodic basis and shall advise the Attorney General on issues related to the performance of the inspectional services of the Immigration and Naturalization Service. This advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Attorney General shall give substantial consideration to the views of the advisory committee in the exercise of his duties.

(l)²³² REPORT TO CONGRESS.—In addition to the reporting requirements established pursuant to subsection (h), the Attorney General shall prepare and submit annually to the Congress, not later than March 31st of each year, a statement of the financial condition of the "Immigration User Fee Account" including beginning account balance, revenues, withdrawals and their purpose, ending balance, projections for the ensuing fiscal year and a full and complete workload analysis showing on a port by port basis the current and projected need for inspectors. The statement shall indicate the success rate of the Immigration and Naturalization Service

²³² § 210(a)(5) of the Department of Justice Appropriations Act, 1991 (Pub. L. 101-515, Nov. 5, 1990, 104 Stat. 2120) replaced the previously repealed subsection (l) with this subsection.

in meeting the forty-five minute inspection standard and shall provide detailed statistics regarding the number of passengers inspected within the standard, progress that is being made to expand the utilization of United States citizen by-pass, the number of passengers for whom the standard is not met and the length of their delay, locational breakdown of these statistics and the steps being taken to correct any non-conformity.

(m)²³³ Notwithstanding any other provisions of law, all adjudication fees as are designated by the Attorney General in regulations shall be deposited as offsetting receipts into a separate account entitled "Immigration Examinations Fee Account" in the Treasury of the United States, whether collected directly by the Attorney General or through clerks of courts: *Provided, however*, That all fees received by the Attorney General from applicants residing in the Virgin Islands of the United States and in Guam, under this subsection shall be paid over to the treasury of the Virgin Islands and to the treasury of Guam: *Provided further*, That fees for providing adjudication and naturalization services may be set at a level that will ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants. Such fees may also be set at a level that will recover any additional costs associated with the administration of the fees collected.

(n)²³³ All deposits into the "Immigration Examinations Fee Account" shall remain available until expended to the Attorney General to reimburse any appropriation the amount paid out of such appropriation for expenses in providing immigration adjudication and naturalization services and the collection, safeguarding and accounting for fees deposited in and funds reimbursed from the "Immigration Examinations Fee Account".

(o)²³³ The Attorney General will prepare and submit annually to Congress statements of financial condition of the "Immigration Examinations Fee Account", including beginning account balance, revenues, withdrawals, and ending account balance and projections for the ensuing fiscal year.

(p)²³³ The provisions set forth in subsections (m), (n), and (o) of this section apply to adjudication and naturalization services performed and to related fees collected on or after October 1, 1988.

(q)²³⁴ LAND BORDER INSPECTION FEE ACCOUNT.—(1) Notwithstanding any other provision of law, the Attorney General is authorized to establish, by regulation, a project under which a fee may be charged and collected for inspection services provided at one or more land border points of entry. Such project may include the establishment of commuter lanes to be made available to quali-

²³³ Subsections (m) through (p) were added by § 209(a) of the Department of Justice Appropriations Act, 1989 (in Pub. L. 100-459, 102 Stat. 2203, Oct. 1, 1988), as amended by § 309(a) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1757). Subsection (m) was further amended by paragraphs (1) and (2) of 210(d) of the Department of Justice Appropriations Act, 1991 (Pub. L. 101-515, Nov. 5, 1990, 104 Stat. 2121) by inserting "as offsetting receipts" after "shall be deposited" and by inserting "*Provided further*" and all that follows.

²³⁴ § 210(d)(3) of the Department of Justice Appropriations Act, 1991 (Pub. L. 101-515, Nov. 5, 1990, 104 Stat. 2121) inserted subsection (q), and was amended by § 309(a)(2) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1758).

NOTE.—See footnote 233 on previous page.

fied United States citizens and aliens, as determined by the Attorney General.

(2) All of the fees collected under this subsection shall be deposited as offsetting receipts in a separate account within the general fund of the Treasury of the United States, to remain available until expended. Such account shall be known as the Land Border Inspection Fee Account.

(3)(A) The Secretary of the Treasury shall refund, at least on a quarterly basis amounts to any appropriations for expenses incurred in providing inspection services at land border points of entry. Such expenses shall include—

- (i) the providing of overtime inspection services;
- (ii) the expansion, operation and maintenance of information systems for nonimmigrant control;
- (iii) the hire of additional permanent and temporary inspectors;
- (iv) the minor construction costs associated with the addition of new traffic lanes (with the concurrence of the General Services Administration);
- (v) the detection of fraudulent documents used by passengers traveling to the United States;
- (vi) providing for the administration of said account.

(B) The amounts required to be refunded from the Land Border Inspection Fee Account for fiscal years 1992 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years: *Provided*, That any proposed changes in the amounts designated in said budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 606 of Public Law 101-162.

(4) The Attorney General will prepare and submit annually to the Congress statements of financial condition of the Land Border Immigration Fee Account, including beginning account balance, revenues, withdrawals, and ending account balance and projection for the ensuing fiscal year.

(5)(A) The program authorized in this subsection shall terminate on September 30, 1993^{234a}, unless further authorized by an Act of Congress.

(B) The provisions set forth in this subsection shall take effect 30 days after submission of a written plan by the Attorney General detailing the proposed implementation of the project specified in paragraph (1).

(C) If implemented, the Attorney General shall prepare and submit on a quarterly basis, until September 30, 1993, a status report on the land border inspection project.

(r) BREACHED BOND/DETENTION FUND.—^{234b}

^{234a}The 4th proviso under "IMMIGRATION AND NATURALIZATION SERVICE, SALARIES AND EXPENSES" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (P.L. 103-121, 107 Stat. 1161, Oct. 27, 1993) provides as follows: "That the Land Border Fee Pilot Project scheduled to end September 30, 1993, is extended to September 30, 1996 for projects on the northern border of the United States only".

^{234b}Subsection (r) was added to § 286 of the Immigration and Nationality Act "of 1952, as amended", by § 112 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (Pub. L. 102-395, October 6, 1992, 106 Stat. 1843), and amended by § 219(t) the Immigration and Nationality Technical Corrections Act of 1994 (P.L.

(1) Notwithstanding any other provision of law, there is established in the general fund of the Treasury a separate account which shall be known as the Breached Bond/Detention Fund (in this subsection referred to as the 'Fund').

(2) There shall be deposited as offsetting receipts into the Fund all breached cash and surety bonds, in excess of \$8,000,000, posted under this Act which are recovered by the Department of Justice.

(3) Such amounts as are deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Immigration and Naturalization Service for the following purposes—

(i) for expenses incurred in the collection of breached bonds, and

(ii) for expenses associated with the detention of illegal aliens.

(4) The amount required to be refunded from Fund for fiscal year 1994 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years: *Provided*, That any proposed changes in the amounts designated in said budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 606 of Public Law 102-395.

(5) The Attorney General shall prepare and submit annually to the Congress, statements of financial condition of the Fund, including the beginning balance, receipts, refunds to appropriations, transfers to the general fund, and the ending balance.

(6) For fiscal year 1993 only, the Attorney General may transfer up to \$1,000,000 from the Immigration User Fee Account to Fund for initial expenses necessary to enhance collection efforts: *Provided*, That any such transfers shall be refunded from Fund back to the Immigration User Fee Account by December 31, 1993.

POWERS OF IMMIGRATION OFFICERS AND EMPLOYEES

SEC. 287. [8 U.S.C. 1357] (a) Any officer or employee of the Service authorized under regulations prescribed by the Attorney General shall have power without warrant—

(1) to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States;

(2) to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, or expulsion of aliens, or to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest, but the alien arrested shall be taken

103-416, 108 Stat. 4317, Oct. 25, 1994); in paragraphs (4) and (6), "the" was inadvertently stricken before "Fund" each place it appears.

without unnecessary delay for examination before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States;

(3) within a reasonable distance from any external boundary of the United States, to board and search for aliens any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle, and within a distance of twenty-five miles from any such external boundary to have access to private lands, but not dwellings for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States;

(4)²³⁵ to make arrests for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, or expulsion of aliens, if he has reason to believe that the person so arrested is guilty of such felony and if there is likelihood of the person escaping before a warrant can be obtained for his arrest, but the person arrested shall be taken without unnecessary delay before the nearest available officer empowered to commit persons charged with offenses against the laws of the United States; and

(5) to make arrests—

(A) for any offense against the United States, if the offense is committed in the officer's or employee's presence, or

(B) for any felony cognizable under the laws of the United States, if the officer or employee has reasonable grounds to believe that the person to be arrested has committed or is committing such a felony,

if the officer or employee is performing duties relating to the enforcement of the immigration laws at the time of the arrest and if there is a likelihood of the person escaping before a warrant can be obtained for his arrest.

Under regulations prescribed by the Attorney General, an officer or employee of the Service may carry a firearm and may execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States. The authority to make arrests under paragraph (5)(B) shall only be effective on and after the date on which the Attorney General publishes final regulations which (i) prescribe the categories of officers and employees of the Service who may use force (including deadly force) and the circumstances under which such force may be used, (ii) establish standards with respect to enforcement activities of the Service, (iii) require that any officer or employee of the Service is not authorized to make arrests under paragraph (5)(B) unless the officer or employee has received certification as having completed a training program which covers such arrests and standards described in clause (ii), and (iv) establish an expedited, internal review process for violations of such standards, which process is consistent with

²³⁵ § 503(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5048) amended paragraph (4) by striking the period and a sentence (that read: "Any such employee shall also have the power to execute any warrant or other process issued by any officer under any law regulating the admission, exclusion, or expulsion of aliens.") and by adding paragraph (5) and the matter following paragraph (5).

standard agency procedure regarding confidentiality of matters related to internal investigations.

(b) Any officer or employee of the Service designated by the Attorney General, whether individually or as one of a class, shall have power and authority to administer oaths and to take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States, or concerning any matter which is material or relevant to the enforcement of this Act and the administration of the Service; and any person to whom such oath has been administered (or who has executed an unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code), under the provisions of this Act, who shall knowingly or willfully give false evidence or swear (or subscribe under penalty of perjury as permitted under section 1746 of title 28, United States Code) to any false statement concerning any matter referred to in this subsection shall be guilty of perjury and shall be punished as provided by section 1621, title 18, United States Code.

(c) Any officer or employee of the Service authorized and designated under regulations prescribed by the Attorney General, whether individually or as one of a class, shall have power to conduct a search, without warrant, of the person, and of the personal effects in the possession of any person seeking admission to the United States, concerning whom such officer or employee may have reasonable cause to suspect that grounds exist for exclusion from the United States under this Act which would be disclosed by such search.

(d)²³⁶ In the case of an alien who is arrested by a Federal, State, or local law enforcement official for a violation of any law relating to controlled substances, if the official (or another official)—

(1) has reason to believe that the alien may not have been lawfully admitted to the United States or otherwise is not lawfully present in the United States,

(2) expeditiously informs an appropriate officer or employee of the Service authorized and designated by the Attorney General of the arrest and of facts concerning the status of the alien, and

(3) requests the Service to determine promptly whether or not to issue a detainer to detain the alien,
the officer or employee of the Service shall promptly determine whether or not to issue such a detainer. If such a detainer is issued

²³⁶ This subsection was added by subsection (d) of § 1751 of the Anti-Drug Abuse Act of 1986 (Pub. L. 99-570, Oct. 27, 1986, 100 Stat. 3207-47), and corrected by § 5 of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2615). Subsection (e) of § 1751 of the Anti-Drug Abuse Act of 1986 provides as follows:

(e)(1) From the sums appropriated to carry out this Act [viz., Pub. L. 99-570], the Attorney General, through the Investigative Division of the Immigration and Naturalization Service, shall provide a pilot program in 4 cities to establish or improve the computer capabilities of the local offices of the Service and of local law enforcement agencies to respond to inquiries concerning aliens who have been arrested or convicted for, or are the subject to criminal investigation relating to, a violation of any law relating to controlled substances. The Attorney General shall select cities in a manner that provides special consideration for cities located near the land borders of the United States and for large cities which have major concentrations of aliens. Some of the sums made available under the pilot program shall be used to increase the personnel level of the Investigative Division.

(2) At the end of the first year of the pilot program, the Attorney General shall provide for an evaluation of the effectiveness of the program and shall report to Congress on such evaluation and on whether the pilot program should be extended or expanded.

and the alien is not otherwise detained by Federal, State, or local officials, the Attorney General shall effectively and expeditiously take custody of the alien.

(e) Notwithstanding any other provision of this section other than paragraph (3) of subsection (a), an officer or employee of the Service may not enter without the consent of the owner (or agent thereof) or a properly executed warrant onto the premises of a farm or other outdoor agricultural operation for the purpose of interrogating a person believed to be an alien as to the person's right to be or to remain in the United States.

(f)(1)²³⁷ Under regulations of the Attorney General, the Commissioner shall provide for the fingerprinting and photographing of each alien 14 years of age or older against whom a proceeding is commenced under section 242.

(2) Such fingerprints and photographs shall be made available to Federal, State, and local law enforcement agencies, upon request.

LOCAL JURISDICTION OVER IMMIGRANT STATIONS

SEC. 288. [8 U.S.C. 1358] The officers in charge of the various immigrant stations shall admit therein the proper State and local officers charged with the enforcement of the laws of the State or Territory of the United States in which any such immigrant station is located in order that such State and local officers may preserve the peace and make arrests for crimes under the laws of the States and Territories. For the purpose of this section the jurisdiction of such State and local officers and of the State and local courts shall extend over such immigrant station.

AMERICAN INDIANS BORN IN CANADA

SEC. 289. [8 U.S.C. 1359] Nothing in this title shall be construed to affect the right of American Indians born in Canada to pass the borders of the United States, but such right shall extend only to persons who possess at least 50 per centum of blood of the American Indian race.

CENTRAL FILE; INFORMATION FROM OTHER DEPARTMENTS AND AGENCIES

SEC. 290. [8 U.S.C. 1360] (a) There shall be established in the office of the Commissioner, for the use of the security and enforcement agencies of the Government of the United States, a central index, which shall contain the names of all aliens heretofore admitted to the United States, or excluded therefrom, insofar as such information is available from the existing records of the Service, and the names of all aliens hereafter admitted to the United States, or excluded therefrom, the names of their sponsors of record, if any, and such other relevant information as the Attorney General shall require as an aid to the proper enforcement of this Act.

(b) Any information in any records kept by any department or agency of the Government as to the identity and location of aliens

²³⁷ Subsection (f) was added by § 503(b)(1) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5049).

in the United States shall be made available to the Service upon request made by the Attorney General to the head of any such department or agency.

(c) The Secretary of Health and Human Services shall notify the Attorney General upon request whenever any alien is issued a social security account number and social security card. The Secretary shall also furnish such available information as may be requested by the Attorney General regarding the identity and location of aliens in the United States.

(d) A written certification signed by the Attorney General or by any officer of the Service designated by the Attorney General to make such certification, that after diligent search no record or entry of a specified nature is found to exist in the records of the Service, shall be admissible as evidence in any proceeding as evidence that the records of the Service contain no such record or entry, and shall have the same effect as the testimony of a witness given in open court.

BURDEN OF PROOF

SEC. 291. [8 U.S.C. 1361] Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not subject to exclusion under any provision of this Act, and, if an alien, that he is entitled to the nonimmigrant; immigrant, special immigrant, immediate relative, or refugee status claimed, as the case may be. If such person fails to establish to the satisfaction of the consular officer that he is eligible to receive a visa or other document required for entry, no visa or other document required for entry shall be issued to such person, nor shall such person be admitted to the United States unless he establishes to the satisfaction of the Attorney General that he is not subject to exclusion under any provision of this Act. In any deportation proceeding under chapter 5 against any person, the burden of proof shall be upon such person to show the time, place, and manner of his entry into the United States, but in presenting such proof he shall be entitled to the production of his visa or other entry document, if any, and of any other documents and records, not considered by the Attorney General to be confidential, pertaining to such entry in the custody of the Service. If such burden of proof is not sustained, such person shall be presumed to be in the United States in violation of law.

RIGHT TO COUNSEL

SEC. 292. [8 U.S.C. 1362] In any exclusion or deportation proceedings before a special inquiry officer and in any appeal proceedings before the Attorney General from any such exclusion or deportation proceedings, the person concerned shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose.

DEPOSIT OF AND INTEREST ON CASH RECEIVED TO SECURE
IMMIGRATION BONDS

SEC. 293. [8 U.S.C. 1363] (a) Cash received by the Attorney General as security on an immigration bond shall be deposited in the Treasury of the United States in trust for the obligor on the bond, and shall bear interest payable at a rate determined by the Secretary of the Treasury, except that in no case shall the interest rate exceed 3 per centum per annum. Such interest shall accrue from date of deposit occurring after April 27, 1966, to and including date of withdrawal or date of breach of the immigration bond, whichever occurs first: *Provided*, That cash received by the Attorney General as security on an immigration bond, and deposited by him in the postal savings system prior to discontinuance of the system, shall accrue interest as provided in this section from the date such cash ceased to accrue interest under the system. Appropriations to the Treasury Department for interest on uninvested funds shall be available for payment of said interest.

(b) The interest accruing on cash received by the Attorney General as security on an immigration bond shall be subject to the same disposition as prescribed for the principal cash, except that interest accruing to the date of breach of the immigration bond shall be paid to the obligor on the bond.

[The following provisions, sections 401 and 501 of the Immigration Reform and Control Act of 1986 and printed in 8 point type, are included at this point as chapter 13 of title 8, United States Code, but are *not* part of the Immigration and Nationality Act:]

SEC. 401. [8 U.S.C. 1364] TRIENNIAL COMPREHENSIVE REPORT ON IMMIGRATION.

(a) **TRIENNIAL REPORT.**—The President shall transmit to the Congress, not later than January 1, 1989, and not later than January 1 of every third year thereafter, a comprehensive immigration-impact report.

(b) **DETAILS IN EACH REPORT.**—Each report shall include—

(1) the number and classification of aliens admitted (whether as immediate relatives, special immigrants, refugees, or under the preferences classifications, or as nonimmigrants), paroled, or granted asylum, during the relevant period;

(2) a reasonable estimate of the number of aliens who entered the United States during the period without visas or who became deportable during the period under section 241 of the Immigration and Nationality Act; and

(3) a description of the impact of admissions and other entries of immigrants, refugees, asylees, and parolees into the United States during the period on the economy, labor and housing markets, the educational system, social services, foreign policy, environmental quality and resources, the rate, size, and distribution of population growth in the United States, and the impact on specific States and local units of government of high rates of immigration resettlement.

(c) **HISTORY AND PROJECTIONS.**—The information (referred to in subsection (b)) contained in each report shall be—

(1) described for the preceding three-year period, and

(2) projected for the succeeding five-year period, based on reasonable estimates substantiated by the best available evidence.

(d) **RECOMMENDATIONS.**—The President also may include in such report any appropriate recommendations on changes in numerical limitations or other policies under title II of the Immigration and Nationality Act bearing on the admission and entry of such aliens to the United States.

SEC. 501. [8 U.S.C. 1365] REIMBURSEMENT OF STATES FOR COSTS OF INCARCERATING ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS.

(a) **REIMBURSEMENT OF STATES.**—Subject to the amounts provided in advance in appropriation Acts, the Attorney General shall reimburse a State for the costs incurred by the State for the imprisonment of any illegal alien or Cuban national who is convicted of a felony by such State.

(b) **ILLEGAL ALIENS CONVICTED OF A FELONY.**—An illegal alien referred to in subsection (a) is any alien who is any alien convicted of a felony who is in the United States unlawfully and—

(1) whose most recent entry into the United States was without inspection, or

(2) whose most recent admission to the United States was as a non-immigrant and—

(A) whose period of authorized stay as a nonimmigrant expired, or

(B) whose unlawful status was known to the Government, before the date of the commission of the crime for which the alien is convicted.

(c) **MARIELITO CUBANS CONVICTED OF A FELONY.**—A Marielito Cuban convicted of a felony referred to in subsection (a) is a national of Cuba who—

(1) was allowed by the Attorney General to come to the United States in 1980,

(2) after such arrival committed any violation of State or local law for which a term of imprisonment was imposed, and

(3) at the time of such arrival and at the time of such violation was not an alien lawfully admitted to the United States—

(A) for permanent or temporary residence, or

(B) under the terms of an immigrant visa or a nonimmigrant visa issued, under the laws of the United States.

(d) **AUTHORIZATION OF APPROPRIATION.**—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

(e) **STATE DEFINED.**—The term “State” has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

TITLE III—NATIONALITY AND NATURALIZATION

CHAPTER 1—NATIONALITY AT BIRTH AND BY COLLECTIVE NATURALIZATION

NATIONALS AND CITIZENS OF THE UNITED STATES AT BIRTH²³⁸

SEC. 301.²³⁹ [8 U.S.C. 1401] The following shall be nationals and citizens of the United States at birth:

²³⁸ Section 506(b) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States, shown in Appendix V.A.1., made this section applicable to children born abroad to United States citizen or non-citizen national parents permanently residing in the Northern Mariana Islands.

²³⁹ **HISTORICAL NOTE.**—Previous to 1978, section 301 required that a person born abroad of a U.S. citizen parent and an alien parent must be physically present in the United States for a particular period of time in order to retain United States citizenship. Subsection (b) of this section provided for a five-year period of continuous residence as follows:

(b) Any person who is a national and citizen of the United States at birth under paragraph (7) of subsection (a), shall lose his nationality and citizenship unless he shall come to the United States prior to attaining the age of twenty-three years and shall immediately following any such coming be continuously physically present in the United State[s] for at least five years: *Provided*, That such physical presence follows the attainment of the age of fourteen years and precedes the age of twenty-eight years.

Subsection (c) of this section clarified that this requirement only applied to aliens born abroad after May 24, 1934:

(c) Subsection (b) shall apply to a person born abroad subsequent to May 24, 1934: *Provided, however*, That nothing contained in this subsection shall be construed to alter or affect the citizenship of any person born abroad subsequent to May 24, 1934, who, prior to the effective date of this Act, has taken up a residence in the United States before attaining the age of sixteen years, and thereafter, whether before or after the effective date of this Act, complies or shall comply with the residence requirements for retention of citizenship specified in subsections (g) and (h) of section 201 of the Nationality Act of 1940, as amended.

Section 16 of the Act of September 11, 1957 (71 Stat. 644) provided a rule for determining continuity of residence as follows: “In the administration of section 301(b) of the Immigration and Nationality Act, absences from the United States of less than twelve months in the aggregate, during the period for which continuous physical presence in the United States is required, shall not be considered to break the continuity of such physical presence.”

Public Law 92-584 (Oct. 27, 1972, 86 Stat. 1289) amended these provisions by rewriting subsection (b) to provide for only a two year residency requirement as follows:

(b) Any person who is a national and citizen of the United States under paragraph (7) of subsection (a) shall lose his nationality and citizenship unless—(1) he shall come to the United

Continued

(a) a person born in the United States, and subject to the jurisdiction thereof;

(b) a person born in the United States to a member of an Indian, Eskimo, Aleutian, or other aboriginal tribe: *Provided*, That the granting of citizenship under this subsection shall not in any manner impair or otherwise affect the right of such person to tribal or other property;

(c) a person born outside of the United States and its outlying possessions of parents both of whom are citizens of the United States and one of whom has had a residence in the United States or one of its outlying possessions, prior to the birth of such person;

(d) a person born outside of the United States and its outlying possessions of parents one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year prior to the birth of such person, and the other of whom is a national, but not a citizen of the United States;

(e) a person born in an outlying possession of the United States of parents one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year at any time prior to the birth of such person;

(f) a person of unknown parentage found in the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, not to have been born in the United States;

(g)²⁴⁰ a person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States

States and be continuously physically present therein for a period of not less than two years between the ages of fourteen years and twenty-eight years; or (2) the alien parent is naturalized while the child is under the age of eighteen years and the child begins to reside permanently in the United States while under the age of eighteen years. In the administration of this subsection absences from the United States of less than sixty days in the aggregate during the period for which continuous physical presence in the United States is required shall not break the continuity of such physical presence.

That Public Law also repealed section 16 of the Act of September 11, 1957, and added a new subsection (d), as a savings clause for those complying with the previous law:

(d) Nothing contained in subsection (b), as amended, shall be construed to alter or affect the citizenship of any person who has come to the United States prior to the effective date of this subsection and who, whether before or after the effective date of this subsection, immediately following such coming complied or shall comply with the physical presence requirements for retention of citizenship specified in subsection (b) prior to its amendment and the repeal of section 16 of the Act of September 11, 1957.

These amendments applied to aliens born abroad after May 24, 1934.

The first section of Public Law 95-432 (Oct. 10, 1978, 92 Stat 1046), effective October 10, 1978, repealed subsections (b), (c), and (d), thus eliminating the residence requirement for retention of United States citizenship. This change was effective on October 10, 1978, and is prospective in nature (viz., it does not reinstate as citizens those who had lost citizenship under section 301(b) as previously in effect). See H. Rept. 95-1493 (95th Cong.), to accompany H.R. 13349, p. 2.

²⁴⁰ The Act of March 16, 1956 (70 Stat. 50; 8 U.S.C. 1401a), provides as follows:

That section 301(g) of the Immigration and Nationality Act shall be considered to have been and to be applicable to a child born outside of the United States and its outlying possessions after January 12, 1941, and before December 24, 1952, of parents one of whom is a citizen of the United States who has served in the Armed Forces of the United States after December 31, 1946, and before December 24, 1952, and whose case does not come within the provisions of section 201 (g) or (i) of the Nationality Act of 1940.

²⁴¹ § 12 of the Immigration and Nationality Act Amendments of 1986 (Pub. L. 99-653, Nov. 14, 1986, 100 Stat. 3657) substituted "five years, at least two" for "ten years, at least five", effective for persons born on or after November 14, 1986.

who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two²⁴¹ of which were after attaining the age of fourteen years: *Provided*, That any periods of honorable service in the Armed Forces of the United States, or periods of employment with the United States Government or with an international organization as that term is defined in section 1 of the International Organizations Immunities Act (59 Stat. 669; 22 U.S.C. 288) by such citizen parent, or any periods during which such citizen parent is physically present abroad as the dependent unmarried son or daughter and a member of the household of a person (A) honorably serving with the Armed Forces of the United States, or (B) employed by the United States Government or an international organization as defined in section 1 of the International Organizations Immunities Act, may be included in order to satisfy the physical-presence requirement of this paragraph. This proviso shall be applicable to persons born on or after December 24, 1952, to the same extent as if it had become effective in its present form on that date; and

(h)^{241a} a person born before noon (Eastern Standard Time) May 24, 1934, outside the limits and jurisdiction of the United States of an alien father and a mother who is a citizen of the United States who, prior to the birth of such person, had resided in the United States.

PERSONS BORN IN PUERTO RICO ON OR AFTER APRIL 11, 1899

SEC. 302. [8 U.S.C. 1402] All persons born in Puerto Rico on or after April 11, 1899, and prior to January 13, 1941, subject to the jurisdiction of the United States, residing on January 13, 1941, in Puerto Rico or other territory over which the United States exercises rights of sovereignty and not citizens of the United States under any other Act, are hereby declared to be citizens of the Unit-

^{241a} Paragraph (h) was added by subsection (a)(2) of § 101 of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4306, Oct. 25, 1994); subsections (b) through (d) of that section provide as follows:

(b) **WAIVER OF RETENTION REQUIREMENTS.**—Any provision of law (including section 301(b) of the Immigration and Nationality Act (as in effect before October 10, 1978), and the provisos of section 201(g) of the Nationality Act of 1940) that provided for a person's loss of citizenship or nationality if the person failed to come to, or reside or be physically present in, the United States shall not apply in the case of a person claiming United States citizenship based on such person's descent from an individual described in section 301(h) of the Immigration and Nationality Act (as added by subsection (a)).

(c) **RETROACTIVE APPLICATION.**—(1) Except as provided in paragraph (2), the immigration and nationality laws of the United States shall be applied (to persons born before, on, or after the date of the enactment of this Act) as though the amendment made by subsection (a), and subsection (b), had been in effect as of the date of their birth, except that the retroactive application of the amendment and that subsection shall not affect the validity of citizenship of anyone who has obtained citizenship under section 1993 of the Revised Statutes (as in effect before the enactment of the Act of May 24, 1934 (48 Stat. 797)).

(2) The retroactive application of the amendment made by subsection (a), and subsection (b), shall not confer citizenship on, or affect the validity of any denaturalization, deportation, or exclusion action against, any person who is or was excludable from the United States under section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) (or predecessor provision) or who was excluded from, or who would not have been eligible for admission to, the United States under the Displaced Persons Act of 1948 or under section 14 of the Refugee Relief Act of 1953.

(d) **APPLICATION TO TRANSMISSION OF CITIZENSHIP.**—This section, the amendments made by this section, and any retroactive application of such amendments shall not effect any residency or other retention requirements for citizenship as in effect before October 10, 1978, with respect to the transmission of citizenship.

ed States as of January 13, 1941. All persons born in Puerto Rico on or after January 13, 1941, and subject to the jurisdiction of the United States, are citizens of the United States at birth.

PERSONS BORN IN THE CANAL ZONE OR REPUBLIC OF PANAMA ON OR
AFTER FEBRUARY 26, 1904

SEC. 303. [8 U.S.C. 1403] (a) Any person born in the Canal Zone on or after February 26, 1904, and whether before or after the effective date of this Act,²⁴² whose father or mother or both at the time of the birth of such person was or is a citizen of the United States, is declared to be a citizen of the United States.

(b) Any person born in the Republic of Panama on or after February 26, 1904, and whether before or after the effective date of this Act, whose father or mother or both at the time of the birth of such person was or is a citizen of the United States employed by the Government of the United States or by the Panama Railroad Company, or its successor in title, is declared to be a citizen of the United States.

PERSONS BORN IN ALASKA ON OR AFTER MARCH 30, 1867

SEC. 304. [8 U.S.C. 1404] A person born in Alaska on or after March 30, 1867, except a noncitizen Indian, is a citizen of the United States at birth. A noncitizen Indian born in Alaska on or after March 30, 1867, and prior to June 2, 1924, is declared to be a citizen of the United States as of June 2, 1924. An Indian born in Alaska on or after June 2, 1924, is a citizen of the United States at birth.

PERSONS BORN IN HAWAII

SEC. 305. [8 U.S.C. 1405] A person born in Hawaii on or after August 12, 1898, and before April 30, 1900, is declared to be a citizen of the United States as of April 30, 1900. A person born in Hawaii on or after April 30, 1900, is a citizen of the United States at birth. A person who was a citizen of the Republic of Hawaii on August 12, 1898, is declared to be a citizen of the United States as of April 30, 1900.

PERSONS LIVING IN AND BORN IN THE VIRGIN ISLANDS

SEC. 306. [8 U.S.C. 1406] (a) The following persons and their children born subsequent to January 17, 1917, and prior to February 25, 1927, are declared to be citizens of the United States as of February 25, 1927:

(1) All former Danish citizens who, on January 17, 1917, resided in the Virgin Islands of the United States, and were residing in those islands or in the United States or Puerto Rico on February 25, 1927, and who did not make the declaration required to preserve their Danish citizenship by article 6 of the treaty entered into on August 4, 1916, between the United States and Denmark, or who, having made such a declaration have heretofore renounced or may hereafter renounce it by a declaration before a court of record;

²⁴² The effective date of this Act is December 24, 1952.

(2) All natives of the Virgin Islands of the United States who, on January 17, 1917, resided in those islands, and were residing in those islands or in the United States or Puerto Rico on February 25, 1927, and who were not on February 25, 1927, citizens or subjects of any foreign country;

(3) All natives of the Virgin Islands of the United States who, on January 17, 1917, resided in the United States, and were residing in those islands on February 25, 1927, and who were not on February 25, 1927, citizens or subjects of any foreign country; and

(4) All natives of the Virgin Islands of the United States who, on June 28, 1932, were residing in continental United States, the Virgin Islands of the United States, Puerto Rico, the Canal Zone, or any other insular possession or territory of the United States, and who, on June 28, 1932, were not citizens or subjects of any foreign country, regardless of their place of residence on January 17, 1917.

(b) All persons born in the Virgin Islands of the United States on or after January 17, 1917, and prior to February 25, 1927, and subject to the jurisdiction of the United States are declared to be citizens of the United States as of February 25, 1927; and all persons born in those islands on or after February 25, 1927, and subject to the jurisdiction of the United States, are declared to be citizens of the United States at birth.

PERSONS LIVING IN AND BORN IN GUAM

SEC. 307. [8 U.S.C. 1407] (a) The following persons, and their children born after April 11, 1899, are declared to be citizens of the United States as of August 1, 1950, if they were residing on August 1, 1950, on the island of Guam or other territory over which the United States exercises rights of sovereignty:

(1) All inhabitants of the island of Guam on April 11, 1899, including those temporarily absent from the island on that date, who were Spanish subjects, who after that date continued to reside in Guam or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire foreign nationality; and

(2) All persons born in the island of Guam who resided in Guam on April 11, 1899, including those temporarily absent from the island on that date, who after that date continued to reside in Guam or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire foreign nationality.

(b) All persons born in the island of Guam on or after April 11, 1899 (whether before or after August 1, 1950) subject to the jurisdiction of the United States, are hereby declared to be citizens of the United States: *Provided*, That in the case of any person born before August 1, 1950, he has taken no affirmative steps to preserve or acquire foreign nationality.

(c) Any person hereinbefore described who is a citizen or national of a country other than the United States and desires to retain his present political status shall have made, prior to August 1, 1952, a declaration under oath of such desire, said declaration to be in form and executed in the manner prescribed by regula-

tions. From and after the making of such a declaration any such person shall be held not to be a national of the United States by virtue of this Act.

NATIONALS BUT NOT CITIZENS OF THE UNITED STATES AT BIRTH²⁴³

SEC. 308. [8 U.S.C. 1408] Unless otherwise provided in section 301 of this title, the following shall be nationals, but not citizens of the United States at birth:

(1) A person born in an outlying possession of the United States on or after the date of formal acquisition of such possession;

(2) A person born outside the United States and its outlying possessions of parents both of whom are nationals, but not citizens, of the United States, and have had a residence in the United States, or one of its outlying possessions prior to the birth of such person;

(3) A person of unknown parentage found in an outlying possession of the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, not to have been born in such outlying possession; and

(4)²⁴⁴ A person born outside the United States and its outlying possessions of parents one of whom is an alien, and the other a national, but not a citizen, of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than seven years in any continuous period of ten years—

(A) during which the national parent was not outside the United States or its outlying possessions for a continuous period of more than one year, and

(B) at least five years of which were after attaining the age of fourteen years.

The proviso of section 301(g) shall apply to the national parent under this paragraph in the same manner as it applies to the citizen parent under that section.

CHILDREN BORN OUT OF WEDLOCK

SEC. 309. [8 U.S.C. 1409] (a)²⁴⁵ The provisions of paragraphs (c), (d), (e), and (g) of section 301, and of paragraph (2) of section

²⁴³Section 506(b) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States, shown in Appendix V.A.1., made this section applicable to children born abroad to United States citizen or non-citizen national parents permanently residing in the Northern Mariana Islands.

²⁴⁴Paragraph (4) was added by subsection (a) of § 15 of Pub. L. 99-396 (Aug. 27, 1986, 100 Stat. 842). Subsection (b) of that section reads as follows:

(b) The amendment made by subsection (a) shall apply to persons born before, on, or after the date of the enactment of this Act [viz., August 27, 1986]. In the case of a person born before the date of the enactment of this Act—

(1) the status of a national of the United States shall not be considered to be conferred upon the person until the date the person establishes to the satisfaction of the Secretary of State that the person meets the requirements of section 308(4) of the Immigration and Nationality Act, and

(2) the person shall not be eligible to vote in any general election in American Samoa earlier than January 1, 1987.

²⁴⁵Subsection (a) was rewritten by § 13 of the Immigration and Nationality Act Amendments of 1986 (Pub. L. 99-653), as amended by § 8(k) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2617). Subsection (e) of § 23 of the Immigration and Nationality Act Amendments of 1986, as amended by § 8(r) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2619), provides as follows:

308, shall apply as of the date of birth to a person born out of wedlock if—

(1) a blood relationship between the person and the father is established by clear and convincing evidence,

(2) the father had the nationality of the United States at the time of the person's birth,

(3) the father (unless deceased) has agreed in writing to provide financial support for the person until the person reaches the age of 18 years, and

(4) while the the person is under the age of 18 years—

(A) the person is legitimated under the law of the person's residence or domicile,

(B) the father acknowledges paternity of the person in writing under oath, or

(C) the paternity of the person is established by adjudication of a competent court.

(b) Except as otherwise provided in section 405, the provisions of section 301(g) shall apply to a child born out of wedlock on or after January 13, 1941, and before December 24, 1952, as of the date of birth, if the paternity of such child is established at any time while such child is under the age of twenty-one years by legitimation.

(c) Notwithstanding the provision of subsection (a) of this section, a person born, after December 23, 1952, outside the United States and out of wedlock shall be held to have acquired at birth the nationality status of his mother, if the mother had the nationality of the United States at the time of such person's birth, and if the mother had previously been physically present in the United States or one of its outlying possessions for a continuous period of one year.

(e)(1) Except as provided in paragraph (2)(B), the new section 309(a) (as defined in paragraph (4)(A)) shall apply to persons who have not attained 18 years of age as of the date of the enactment of this Act [viz., November 14, 1986].

(2) The old section 309(a) shall apply—

(A) to any individual who has attained 18 years of age as of the date of the enactment of this Act [viz., November 14, 1986], and

(B) any individual with respect to whom paternity was established by legitimation before such date.

(3) An individual who is at least 15 years of age, but under 18 years of age, as of the date of the enactment of this Act [viz., November 14, 1986], may elect to have the old section 309(a) apply to the individual instead of the new section 309(a).

(4) In this subsection:

(A) The term "new section 309(a)" means section 309(a) of the Immigration and Nationality Act, as amended by section 13 of this Act [viz., the Immigration and Nationality Act Amendments of 1986] and as in effect after the date of the enactment of this Act.

(B) The term "old section 309(a)" means section 309(a) of the Immigration and Nationality Act, as in effect before the date of the enactment of this Act.

[NOTE.—The text of "old section 309(a)" is as follows: "The provisions of paragraphs (c), (d), (e), and (g) of section 301, and of paragraph (2) of section 308, of this title shall apply as of the date of birth to a child born out of wedlock on or after the effective date of this Act [viz., December 24, 1952], if the paternity of such child is established while such child is under the age of twenty-one years by legitimation."]

CHAPTER 2—NATIONALITY THROUGH NATURALIZATION

NATURALIZATION AUTHORITY²⁴⁶

SEC. 310. [8 U.S.C. 1421] (a) AUTHORITY IN ATTORNEY GENERAL.—The sole authority to naturalize persons as citizens of the United States is conferred upon the Attorney General.

(b)²⁴⁷ COURT AUTHORITY TO ADMINISTER OATHS.—

(1) JURISDICTION.—Subject to section 337(c)—

(A) GENERAL JURISDICTION.—Except as provided in subparagraph (B), each applicant for naturalization may choose to have the oath of allegiance under section 337(a) administered by the Attorney General or by an eligible court described in paragraph (5). Each such eligible court shall have authority to administer such oath of allegiance to persons residing within the jurisdiction of the court.

(B) EXCLUSIVE AUTHORITY.—An eligible court described in paragraph (5) that wishes to have exclusive authority to administer the oath of allegiance under section 337(a) to persons residing within the jurisdiction of the court during the period described in paragraph (3)(A)(i) shall notify the Attorney General of such wish and, subject to this subsection, shall have such exclusive authority with respect to such persons during such period.

(2) INFORMATION.—

(A) GENERAL INFORMATION.—In the case of a court exercising authority under paragraph (1), in accordance with procedures established by the Attorney General—

(i) the applicant for naturalization shall notify the Attorney General of the intent to be naturalized before the court, and

(ii) the Attorney General—

(I) shall forward to the court (not later than 10 days after the date of approval of an application for naturalization in the case of a court which has provided notice under paragraph (1)(B)) such information as may be necessary to administer the oath of allegiance under section 337(a), and

(II) shall promptly forward to the court a certificate of naturalization (prepared by the Attorney General).

(B) ASSIGNMENT OF INDIVIDUALS IN THE CASE OF EXCLUSIVE AUTHORITY.—If an eligible court has provided notice under paragraph (1)(B), the Attorney General shall inform each person (residing within the jurisdiction of the court), at the time of the approval of the person's application for naturalization, of—

(i) the court's exclusive authority to administer the oath of allegiance under section 337(a) to such a

²⁴⁶Section 310 was amended in its entirety by § 401(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5038), effective October 1, 1991, under § 408(a)(1) of that Act. For § 310 as in effect before that date, see Appendix II.A.2.

²⁴⁷Subsection (b) was amended to read as shown by § 102(a) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232 Dec. 12, 1991, 105 Stat. 1734), effective on January 11, 1992, under, § 102(a) of that Act.

person during the period specified in paragraph (3)(A)(i), and

(ii) the date or dates (if any) under paragraph (3)(B) on which the court has scheduled oath administration ceremonies.

If more than one eligible court in an area has provided notice under paragraph (1)(B), the Attorney General shall permit the person, at the time of the approval, to choose the court to which the information will be forwarded for administration of the oath of allegiance under this section.

(3) SCOPE OF EXCLUSIVE AUTHORITY.—

(A) LIMITED PERIOD AND ADVANCE NOTICE REQUIRED.—

The exclusive authority of a court to administer the oath of allegiance under paragraph (1)(B) shall apply with respect to a person—

(i) only during the 45-day period beginning on the date on which the Attorney General certifies to the court that an applicant is eligible for naturalization, and

(ii) only if the court has notified the Attorney General, prior to the date of certification of eligibility, of the day or days (during such 45-day period) on which the court has scheduled oath administration ceremonies.

(B) AUTHORITY OF ATTORNEY GENERAL.—Subject to subparagraph (C), the Attorney General shall not administer the oath of allegiance to a person under subsection (a) during the period in which exclusive authority to administer the oath of allegiance may be exercised by an eligible court under this subsection with respect to that person.

(C) WAIVER OF EXCLUSIVE AUTHORITY.—Notwithstanding the previous provisions of this paragraph, a court may waive exclusive authority to administer the oath of allegiance under section 337(a) to a person under this subsection if the Attorney General has not provided the court with the certification described in subparagraph (A)(i) within a reasonable time before the date scheduled by the court for oath administration ceremonies. Upon notification of a court's waiver of jurisdiction, the Attorney General shall promptly notify the applicant.

(4) ISSUANCE OF CERTIFICATES.—The Attorney General shall provide for the issuance of certificates of naturalization at the time of administration of the oath of allegiance.

(5) ELIGIBLE COURTS.—For purposes of this section, the term "eligible court" means—

(A) a district court of the United States in any State, or

(B) any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited.

(c) JUDICIAL REVIEW.—A person whose application for naturalization under this title is denied, after a hearing before an immigration officer under section 336(a), may seek review of such denial

before the United States district court for the district in which such person resides in accordance with chapter 7 of title 5, United States Code. Such review shall be de novo, and the court shall make its own findings of fact and conclusions of law and shall, at the request of the petitioner, conduct a hearing de novo on the application.

(d) **SOLE PROCEDURE.**—A person may only be naturalized as a citizen of the United States in the manner and under the conditions prescribed in this title and not otherwise.

ELIGIBILITY FOR NATURALIZATION

SEC. 311. [8 U.S.C. 1422] The right of a person to become a naturalized citizen of the United States shall not be denied or abridged because of race or sex or because such person is married.

REQUIREMENTS AS TO UNDERSTANDING THE ENGLISH LANGUAGE, HISTORY, PRINCIPLES, AND FORM OF GOVERNMENT OF THE UNITED STATES

SEC. 312. [8 U.S.C. 1423] (a) No person except as otherwise provided in this title shall hereafter be naturalized as a citizen of the United States upon his own application who cannot demonstrate—

(1) an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language: *Provided*, That ²⁴⁸ the requirements of this paragraph relating to ability to read and write shall be met if the applicant can read or write simple words and phrases to the end that a reasonable test of his literacy shall be made and that no extraordinary or unreasonable conditions shall be imposed upon the applicant; and

(2) a knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States.

(b)(1) ^{248a} The requirements of subsection (a) shall not apply to any person who is unable because of physical or developmental disability or mental impairment to comply therewith.

(2) The requirement of subsection (a)(1) shall not apply to any person who, on the date of the filing of the person's application for naturalization as provided in section 334, either—

(A) is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence, or

²⁴⁸ § 403 of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5039) added language permitting waiver of the English language requirement for those over 55 years of age who had been living for at least 15 years after admission for permanent residence, effective on November 29, 1990, under § 408(a)(3) of that Act. The proviso relating to waiver of English language requirement was stricken by § 108(a)(4) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4309, Oct. 25, 1994), effective on October 25, 1994, and applicable to applications for naturalization filed on or after such date and to such applications pending on such date under § 108(c) of that Act.

^{248a} Subsection (b) was added by § 108(a)(4) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4309, Oct. 25, 1994), effective on October 25, 1994 and applicable to applications for naturalization filed on or after such date and to such applications pending on such date under § 108(c) of that Act.

(B) is over fifty-five years of age and has been living in the United States for periods totaling at least fifteen years subsequent to a lawful admission for permanent residence.

(3) The Attorney General, pursuant to regulations^{248b}, shall provide for special consideration, as determined by the Attorney General, concerning the requirement of subsection (a)(2) with respect to any person who, on the date of the filing of the person's application for naturalization as provided in section 334, is over sixty-five years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence.

PROHIBITION UPON THE NATURALIZATION OF PERSONS OPPOSED TO GOVERNMENT OR LAW, OR WHO FAVOR TOTALITARIAN FORMS OF GOVERNMENT

SEC. 313. [8 U.S.C. 1424] (a) Notwithstanding the provisions of section 405(b), no person shall hereafter be naturalized as a citizen of the United States—

(1) who advocates or teaches, or who is a member of or affiliated with any organization that advocates or teaches, opposition to all organized government; or

(2) who is a member of or affiliated with (A) the Communist Party of the United States; (B) any other totalitarian party of the United States; (C) the Communist Political Association; (D) the Communist or other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state; (E) any section, subsidiary, branch, affiliate, or subdivision of any such association or party; or^{248c} (F) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt, unless such alien establishes that he did not have knowledge or reason to believe at the time he became a member of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist-front organization; or

(3) who, although not within any of the other provisions of this section, advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who is a member of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or pub-

^{248b} Section 108(d) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4310, Oct. 25, 1994) provides as follows:

(d) REGULATIONS.—Not later than 120 days after the date of enactment of this Act [October 25, 1994], the Attorney General shall promulgate regulations to carry out section 312(b)(3) of the Immigration and Nationality Act (as amended by subsection (a)).

^{248c} § 219(t) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4318, Oct. 25, 1994) substituted "or" for "and", effective December 12, 1991.

lished by or with the permission or consent of or under authority of such organizations or paid for by the funds of such organization; or

(4) who advocates or teaches or who is a member of or affiliated with any organization that advocates or teaches (A) the overthrow by force or violence or other unconstitutional means of the Government of the United States or of all forms of law; or (B) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government because of his or their official character; or (C) the unlawful damage, injury, or destruction of property; or (D) sabotage; or

(5) who writes or publishes or causes to be written or published, or who knowingly circulates, distributes, prints, or displays, or knowingly causes to be circulated, distributed, printed, published, or displayed or who knowingly has in his possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating (A) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (B) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (C) the unlawful damage, injury, or destruction of property; or (D) sabotage; or (E) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship; or

(6) who is a member of or affiliated with any organization, that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subparagraph (5).

(b) The provisions of this section or of any other section of this Act shall not be construed as declaring that any of the organizations referred to in this section or in any other section of this Act do not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means.

(c) The provisions of this section shall be applicable to any applicant for naturalization who at any time within a period of ten years immediately preceding the filing of the application for naturalization or after such filing and before taking the final oath of citizenship is, or has been found to be within any of the classes enumerated within this section, notwithstanding that at the time the application is filed he may not be included within such classes.

(d) Any person who is within any of the classes described in subsection (a) solely because of past membership in, or past affiliation with, a party or organization may be naturalized without regard to the provisions of subsection (c) if such person establishes

that such membership or affiliation is or was involuntary, or occurred and terminated prior to the attainment by such alien of the age of sixteen years, or that such membership or affiliation is or was by operation of law, or was for purposes of obtaining employment, food rations, or other essentials of living and where necessary for such purposes.

INELIGIBILITY TO NATURALIZATION OF DESERTERS FROM THE ARMED
FORCES OF THE UNITED STATES

SEC. 314. [8 U.S.C. 1425] A person who, at any time during which the United States has been or shall be at war, deserted or shall desert the military, air, or naval forces of the United States, or who, having been duly enrolled, departed, or shall depart from the jurisdiction of the district in which enrolled, or who, whether or not having been duly enrolled, went or shall go beyond the limits of the United States, with intent to avoid any draft into the military, air, or naval service, lawfully ordered, shall, upon conviction thereof by a court martial or a court of competent jurisdiction, be permanently ineligible to become a citizen of the United States; and such deserters and evaders shall be forever incapable of holding any office of trust or of profit under the United States, or of exercising any rights of citizens thereof.

ALIEN RELIEVED FROM TRAINING AND SERVICE IN THE ARMED FORCES
OF THE UNITED STATES BECAUSE OF ALIENAGE BARRED FROM
CITIZENSHIP

SEC. 315. [8 U.S.C. 1426] (a) Notwithstanding the provisions of section 405(b) but subject to subsection (c), any alien who applies or has applied for exemption or discharge from training or service in the Armed Forces or in the National Security Training Corps of the United States on the ground that he is an alien, and is or was relieved or discharged from such training or service on such ground, shall be permanently ineligible to become a citizen of the United States.

(b) The records of the Selective Service System or of the Department of Defense shall be conclusive as to whether an alien was relieved or discharged from such liability for training or service because he was an alien.

(c)²⁴⁹ An alien shall not be ineligible for citizenship under this section or otherwise because of an exemption from training or service in the Armed Forces of the United States pursuant to the exercise of rights under a treaty, if before the time of the exercise of such rights the alien served in the Armed Forces of a foreign country of which the alien was a national.

REQUIREMENTS AS TO RESIDENCE, GOOD MORAL CHARACTER, ATTACH-
MENT TO THE PRINCIPLES OF THE CONSTITUTION, AND FAVORABLE
DISPOSITION TO THE UNITED STATES

SEC. 316. [8 U.S.C. 1427] (a) No person, except as otherwise provided in this title, shall be naturalized, unless such applicant,

²⁴⁹ Subsection (c) was added by § 404(2) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5039), effective November 29, 1990, under § 408(e) of that Act.

(1) immediately preceding the date of filing his application for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years and during the five years immediately preceding the date of filing his application has been physically present therein for periods totaling at least half of that time, and who has resided within the State or within the district of the Service in the United States in which the applicant filed the application for at least three months,²⁵⁰ (2) has resided continuously within the United States from the date of the application up to the time of admission to citizenship, and (3) during all the periods referred to in this subsection has been and still is a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.

(b) Absence from the United States of more than six months but less than one year during the period for which continuous residence is required for admission to citizenship, immediately preceding the date of filing the application for naturalization, or during the period between the date of filing the application and the date of any hearing under section 336(a), shall break the continuity of such residence, unless the applicant shall establish to the satisfaction of the Attorney General that he did not in fact abandon his residence in the United States during such period.

Absence from the United States for a continuous period of one year or more during the period for which continuous residence is required for admission to citizenship (whether preceding or subsequent to the filing of the application for naturalization) shall break the continuity of such residence except that in the case of a person who has been physically present and residing in the United States after being lawfully admitted for permanent residence for an uninterrupted period of at least one year and who thereafter, is employed by or under contract with the Government of the United States or an American institution of research recognized as such by the Attorney General, or is employed by an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof more than 50 per centum of whose stock is owned by an American firm or corporation, or is employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence, no period of absence from the United States shall break the continuity of residence if—

(1) prior to the beginning of such period of employment (whether such period begins before or after his departure from the United States), but prior to the expiration of one year of continuous absence from the United States, the person has established to the satisfaction of the Attorney General that his absence from the United States for such period is to be on behalf of such Government, or for the purpose of carrying on scientific research on behalf of such institution, or to be engaged in the development of such foreign trade and commerce or

²⁵⁰ § 402 of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5038) substituted 3 months residence in a Service district or within a State for 6 months residence in a State, effective on November 29, 1990, under § 408(a)(3) of that Act.

whose residence abroad is necessary to the protection of the property rights in such countries of such firm or corporation, or to be employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence; and

(2) such person proves to the satisfaction of the Attorney General that his absence from the United States for such period has been for such purpose.

The spouse and dependent unmarried sons and daughters who are members of the household of a person who qualifies for the benefits of this subsection shall also be entitled to such benefits during the period for which they were residing abroad as dependent members of the household of the person.

(c) The granting of the benefits of subsection (b) of this section shall not relieve the applicant from the requirement of physical presence within the United States for the period specified in subsection (a) of this section, except in the case of those persons who are employed by, or under contract with, the Government of the United States. In the case of a person employed by or under contract with Central Intelligence Agency, the requirement in subsection (b) of an uninterrupted period of at least one year of physical presence in the United States may be complied with by such person at any time prior to filing an application for naturalization.

(d) No finding by the Attorney General that the applicant is not deportable shall be accepted as conclusive evidence of good moral character.

(e) In determining whether the applicant has sustained the burden of establishing good moral character and the other qualifications for citizenship specified in subsection (a) of this section, the Attorney General shall not be limited to the applicant's conduct during the five years preceding the filing of the application, but may take into consideration as a basis for such determination the applicant's conduct and acts at any time prior to that period.

(f)(1)²⁵¹ Whenever the Director of Central Intelligence, the Attorney General and the Commissioner of Immigration determine that an applicant otherwise eligible for naturalization has made an extraordinary contribution to the national security of the United States or to the conduct of United States intelligence activities, the applicant may be naturalized without regard to the residence and physical presence requirements of this section, or to the prohibitions of section 313 of this Act, and no residence within a particular State or district of the Service in the United States shall be required: *Provided*, That the applicant has continuously resided in the United States for at least one year prior to naturalization: *Provided further*, That the provisions of this subsection shall not apply to any alien described in subparagraphs (A) through (D) of paragraph 243(h)(2) of this Act.

(2) An applicant for naturalization under this subsection may be administered the oath of allegiance under section 337(a) by any district court of the United States, without regard to the residence

²⁵¹ This subsection was added by § 601 of the Intelligence Authorization Act for Fiscal Year 1986 (Pub. L. 99-169, Dec. 4, 1985), and was redesignated by § 407(e)(1) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5046).

of the applicant. Proceedings under this subsection shall be conducted in a manner consistent with the protection of intelligence sources, methods and activities.

(3) The number of aliens naturalized pursuant to this subsection in any fiscal year shall not exceed five. The Director of Central Intelligence shall inform the Select Committee on Intelligence and the Committee on the Judiciary of the Senate and the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives within a reasonable time prior to the filing of each application under the provisions of this subsection.

TEMPORARY ABSENCE OF PERSONS PERFORMING RELIGIOUS DUTIES

SEC. 317. [8 U.S.C. 1428] Any person who is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or any person who is engaged solely by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States as a missionary, brother, nun, or sister, who (1) has been lawfully admitted to the United States for permanent residence, (2) has at any time thereafter and before filing an application for naturalization been physically present and residing within the United States for an uninterrupted period of at least one year, and (3) has heretofore been or may hereafter be absent temporarily from the United States in connection with or for the purpose of performing the ministerial or priestly functions of such religious denomination, or serving as a missionary, brother, nun, or sister, shall be considered as being physically present and residing in the United States for the purpose of naturalization within the meaning of section 316(a), notwithstanding any such absence from the United States, if he shall in all other respects comply with the requirements of the naturalization law. Such person shall prove to the satisfaction of the Attorney General that his absence from the United States has been solely for the purpose of performing the ministerial or priestly functions of such religious denomination, or of serving as a missionary, brother, nun, or sister.

PREREQUISITE TO NATURALIZATION; BURDEN OF PROOF

SEC. 318. [8 U.S.C. 1429] Except as otherwise provided in this title, no person shall be naturalized unless he has been lawfully admitted to the United States for permanent residence in accordance with all applicable provisions of this Act. The burden of proof shall be upon such person to show that he entered the United States lawfully, and the time, place, and manner of such entry into the United States, but in presenting such proof he shall be entitled to the production of his immigrant visa, if any, or of other entry document, if any, and of any other documents and records, not considered by the Attorney General to be confidential, pertaining to such entry, in the custody of the Service. Notwithstanding the provisions of section 405(b), and except as provided in sections 328 and 329 no person shall be naturalized against whom there is outstanding a final finding of deportability pursuant to a warrant of arrest is-

sued under the provisions of this or any other Act; and no application for naturalization shall be considered by the Attorney General if there is pending against the applicant a deportation proceeding pursuant to a warrant of arrest issued under the provisions of this or any other Act: *Provided*, That the findings of the Attorney General in terminating deportation proceedings or in suspending the deportation of an alien pursuant to the provisions of this Act, shall not be deemed binding in any way upon the Attorney General with respect to the question of whether such person has established his eligibility for naturalization as required by this title.

MARRIED PERSONS AND EMPLOYEES OF CERTAIN NONPROFIT
ORGANIZATIONS

SEC. 319. [8 U.S.C. 1430] (a) Any person whose spouse is a citizen of the United States may be naturalized upon compliance with all the requirements of this title except the provisions of paragraph (1) of section 316(a) if such person immediately preceding the date of filing his application for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least three years, and during the three years immediately preceding the date of filing his application has been living in marital union with the citizen spouse, who has been a United States citizen during all of such period, and has been physically present in the United States for periods totaling at least half of that time and has resided within the State or the district of the Service in the United States in which the applicant filed his application for at least three months.

(b) Any person, (1) whose spouse is (A) a citizen of the United States, (B) in the employment of the Government of the United States, or of an American institution of research recognized as such by the Attorney General, or of an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof, or of a public international organization in which the United States participates by treaty or statute, or is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or is engaged solely as a missionary by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States, and (C) regularly stationed abroad in such employment, and (2) who is in the United States at the time of naturalization, and (3) who declares before the Attorney General in good faith an intention to take up residence within the United States immediately upon the termination of such employment abroad of the citizen spouse, may be naturalized upon compliance with all the requirements of the naturalization laws, except that no prior residence or specified period of physical presence within the United States or within a State or a district of the Service in the United States or proof thereof shall be required.

(c) Any person who (1)²⁵² is employed by a bona fide United States incorporated nonprofit organization which is principally engaged in conducting abroad through communications media the dissemination of information which significantly promotes United States interests abroad and which is recognized as such by the Attorney General, and (2) has been so employed continuously for a period of not less than five years after a lawful admission for permanent residence, and (3) who files his application for naturalization while so employed or within six months following the termination thereof, and (4) who is in the United States at the time of naturalization, and (5) who declares before the Attorney General in good faith an intention to take up residence within the United States immediately upon termination of such employment, may be naturalized upon compliance with all the requirements of this title except that no prior residence or specified period of physical presence within the United States or any State or district of the Service in the United States, or proof thereof, shall be required.

(d) Any person who is the surviving spouse of a United States citizen, whose citizen spouse dies during a period of honorable service in an active duty status in the Armed Forces of the United States and who was living in marital union with the citizen spouse at the time of his death, may be naturalized upon compliance with all the requirements of this title except that no prior residence or specified physical presence within the United States, or within a State or a district of the Service in the United States shall be required.

CHILD BORN OUTSIDE OF UNITED STATES OF ONE ALIEN AND ONE CITIZEN PARENT AT TIME OF BIRTH; CONDITIONS UNDER WHICH CITIZENSHIP AUTOMATICALLY ACQUIRED

SEC. 320. [8 U.S.C. 1431] (a) A child born outside of the United States, one of whose parents at the time of the child's birth was an alien and the other of whose parents then was and never thereafter ceased to be a citizen of the United States, shall, if such alien parent is naturalized, become a citizen of the United States, when—

(1) such naturalization takes place while such child is under the age of eighteen years; and

(2) such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of nat-

²⁵² §506 of the Intelligence Authorization Act, Fiscal Year 1990 (Pub. L. 101-193, Nov. 30, 1989, 103 Stat. 1709) provides as follows:

REQUIREMENTS FOR CITIZENSHIP FOR STAFF OF UNITED STATES ARMY RUSSIAN INSTITUTE

SEC. 506. (a) For purposes of section 319(c) of the Immigration and Nationality Act (8 U.S.C. 1430(c)), the United States Army Russian Institute, located in Garmisch, Federal Republic of Germany, shall be considered to be an organization described in clause (1) of this [sic] section.

(b) Subsection (a) shall apply with respect to periods of employment before, on, or after the date of the enactment of this Act.

(c) No more than two persons per year may be naturalized based on the provisions of subsection (a).

(d) Each instance of naturalization based on the provisions of subsection (a) shall be reported to the Committees on the Judiciary of the Senate and House of Representatives and to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives prior to such naturalization.

NOTE.—Reference in subsection (a) to "this" section should be a reference to "such" section.

uralization or thereafter and begins to reside permanently in the United States while under the age of eighteen years.

(b) Subsection (a) of this section shall apply to an adopted child only if the child is residing in the United States at the time of naturalization of such adoptive parent, in the custody of his adoptive parents, pursuant to a lawful admission for permanent residence.

CHILD BORN OUTSIDE OF UNITED STATES OF ALIEN PARENT;
CONDITIONS UNDER WHICH CITIZENSHIP AUTOMATICALLY ACQUIRED

SEC. 321. [8 U.S.C. 1432] (a) A child born outside of the United States of alien parents, or of an alien parent and a citizen parent who has subsequently lost citizenship of the United States, becomes a citizen of the United States upon fulfillment of the following conditions:

- (1) The naturalization of both parents; or
- (2) The naturalization of the surviving parent if one of the parents is deceased; or
- (3) The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents or the naturalization of the mother if the child was born out of wedlock and the paternity of the child has not been established by legitimation; and if

(4) Such naturalization takes place while such child is under the age of eighteen years; and

(5) Such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of the naturalization of the parent last naturalized under clause (1) of this subsection, or the parent naturalized under clause (2) or (3) of this subsection, or thereafter begins to reside permanently in the United States while under the age of eighteen years.

(b) Subsection (a) of this section shall apply to an adopted child only if the child is residing in the United States at the time of naturalization of such adoptive parent or parents, in the custody of his adoptive parent or parents, pursuant to a lawful admission for permanent residence.

CHILD BORN OUTSIDE THE UNITED STATES; APPLICATION FOR
CERTIFICATE OF CITIZENSHIP REQUIREMENTS ^{252a}

SEC. 322. (a) A parent who is a citizen of the United States may apply to the Attorney General for a certificate of citizenship on behalf of a child born outside the United States. The Attorney General shall issue such a certificate of citizenship upon proof to the satisfaction of the Attorney General that the following conditions have been fulfilled:

(1) At least one parent is a citizen of the United States, whether by birth or naturalization.

(2) The child is physically present in the United States pursuant to a lawful admission.

(3) The child is under the age of 18 years and in the legal custody of the citizen parent.

^{252a} This section was amended in its entirety by § 102(a) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4306, Oct. 25, 1994), effective as of April 1, 1995, under § 102(d) of that Act.

(4) If the citizen parent is an adoptive parent of the child, the child was adopted by the citizen parent before the child reached the age of 16 years and the child meets the requirements for being a child under subparagraph (E) or (F) of section 101(b)(1).

(5) If the citizen parent has not been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years—

(A) the child is residing permanently in the United States with the citizen parent, pursuant to a lawful admission for permanent residence, or

(B) a citizen parent of the citizen parent has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years.

(b) Upon approval of the application (which may be filed abroad) and, except as provided in the last sentence of section 337(a), upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this Act of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship.

(c) Subsection (a) of this section shall apply to the adopted child of a United States citizen adoptive parent if the conditions specified in such subsection have been fulfilled.

[Section 323 was repealed by § 7 of Pub. L. 95-417 (Oct. 5, 1978, 92 Stat. 918)]

FORMER CITIZENS OF UNITED STATES REGAINING UNITED STATES CITIZENSHIP

SEC. 324. [8 U.S.C. 1435] (a) Any person formerly a citizen of the United States who (1) prior to September 22, 1922, lost United States citizenship by marriage to an alien, or by the loss of United States citizenship of such person's spouse, or (2) on or after September 22, 1922, lost United States citizenship by marriage to an alien ineligible to citizenship, may if no other nationality was acquired by an affirmative act of such person other than by marriage be naturalized upon compliance with all requirements of this title, except—

(1) no period of residence or specified period of physical presence within the United States or within the State or district of the Service in the United States where the application is filed shall be required; and

(2) the application need not set forth that it is the intention of the applicant to reside permanently within the United States.

Such person, or any person who was naturalized in accordance with the provisions of section 317(a) of the Nationality Act of 1940, shall have, from and after her naturalization, the status of a native-born or naturalized citizen of the United States, whichever sta-

tus existed in the case of such person prior to the loss of citizenship: *Provided*, That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, or upon any person who was naturalized in accordance with the provisions of section 317(a) of the Nationality Act of 1940, during any period in which such person was not a citizen.

(b) No person who is otherwise eligible for naturalization in accordance with the provisions of subsection (a) of this section shall be naturalized unless such person shall establish to the satisfaction of the Attorney General that she has been a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States for a period of not less than five years immediately preceding the date of filing an application for naturalization and up to the time of admission to citizenship, and, unless she has resided continuously in the United States since the date of her marriage, has been lawfully admitted for permanent residence prior to filing her application for naturalization.

(c)(1) A woman who was a citizen of the United States at birth and (A) who has or is believed to have lost her United States citizenship solely by reason of her marriage prior to September 22, 1922, to an alien, or by her marriage on or after such date to an alien ineligible to citizenship, (B) whose marriage to such alien shall have terminated subsequent to January 12, 1941, and (C) who has not acquired by an affirmative act other than by marriage any other nationality, shall, from and after taking the oath of allegiance required by section 337 of this title, be a citizen of the United States and have the status of a citizen of the United States by birth, without filing an application for naturalization, and notwithstanding any of the other provisions of this title except the provisions of section 313: *Provided*, That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, or upon any person who was naturalized in accordance with the provisions of section 317(b) of the Nationality Act of 1940, during any period in which such person was not a citizen.

(2) Such oath of allegiance may be taken abroad before a diplomatic or consular officer of the United States, or in the United States before the Attorney General or the judge or clerk of a court described in section 310(b).

(3) Such oath of allegiance shall be entered in the records of the appropriate embassy, legation, consulate, court, or the Attorney General, and, upon demand, a certified copy of the proceedings, including a copy of the oath administered, under the seal of the embassy, legation, consulate, court, or the Attorney General, shall be delivered to such woman at a cost not exceeding \$5, which certified copy shall be evidence of the facts stated therein before any court of record or judicial tribunal and in any department or agency of the Government of the United States.

(d)(1)^{252b} A person who was a citizen of the United States at birth and lost such citizenship for failure to meet the physical presence retention requirements under section 301(b) (as in effect before October 10, 1978), shall, from and after taking the oath of allegiance required by section 337 be a citizen of the United States and have the status of a citizen of the United States by birth, without filing an application for naturalization, and notwithstanding any of the other provisions of this title except the provisions of section 313. Nothing in this subsection or any other provision of law shall be construed as conferring United States citizenship retroactively upon such person during any period in which such person was not a citizen.

(2) The provisions of paragraphs (2) and (3) of subsection (c) shall apply to a person regaining citizenship under paragraph (1) in the same manner as they apply under subsection (c)(1).

NATIONALS BUT NOT CITIZENS OF THE UNITED STATES; RESIDENCE
WITHIN OUTLYING POSSESSIONS

SEC. 325. [8 U.S.C. 1436] A person not a citizen who owes permanent allegiance to the United States, and who is otherwise qualified, may, if he becomes a resident of any State, be naturalized upon compliance with the applicable requirements of this title, except that in applications for naturalization filed under the provisions of this section residence and physical presence within the United States within the meaning of this title shall include residence and physical presence within any of the outlying possessions of the United States. resident philippine citizens excepted from certain requirements

SEC. 326. [8 U.S.C. 1437] Any person who (1) was a citizen of the Commonwealth of the Philippines on July 2, 1946, (2) entered the United States prior to May 1, 1934, and (3) has, since such entry, resided continuously in the United States shall be regarded as having been lawfully admitted to the United States for permanent residence for the purpose of applying for naturalization under this title.

FORMER UNITED STATES CITIZENS LOSING CITIZENSHIP BY ENTERING
THE ARMED FORCES OF FOREIGN COUNTRIES DURING WORLD WAR II

SEC. 327. [8 U.S.C. 1438] (a) Any person who, (1) during World War II and while a citizen of the United States, served in the military, air, or naval forces of any country at war with a country with which the United States was at war after December 7, 1941, and before September 2, 1945, and (2) has lost United States citizenship by reason of entering or serving in such forces, or taking an oath or obligation for the purpose of entering such forces, may, upon compliance with all the provisions of title III, of this Act, except section 316(a), and except as otherwise provided in subsection (b), be naturalized by taking before the Attorney General or before a court described in section 310(b) the oath required by section 337 of this title. Certified copies of such oath shall be sent by

^{252b} Subsection (d) was added by § 103(a) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4307, Oct. 25, 1994), effective on April 1, 1995, under § 103(b) of that Act.

such court to the Department of State and to the Department of Justice and by the Attorney General to the Secretary of State.

(b) No person shall be naturalized under subsection (a) of this section unless he—

(1) is, and has been for a period of at least five years immediately preceding taking the oath required in subsection (a), a person of good moral character, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States; and

(2) has been lawfully admitted to the United States for permanent residence and intends to reside permanently in the United States.

(c) Any person naturalized in accordance with the provisions of this section, or any person who was naturalized in accordance with the provisions of section 323 of the Nationality Act of 1940, shall have, from and after such naturalization, the status of a native-born, or naturalized, citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship: *Provided*, That nothing contained herein, or in any other provision of law, shall be construed as conferring United States citizenship retroactively upon any such person during any period in which such person was not a citizen.

(d) For the purposes of this section, World War II shall be deemed to have begun on September 1, 1939, and to have terminated on September 2, 1945.

(e) This section shall not apply to any person who during World War II served in the armed forces of a country while such country was at war with the United States.

NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES OF THE UNITED STATES

SEC. 328. [8 U.S.C. 1439] (a) A person who has served honorably at any time in the Armed Forces of the United States for a period or periods aggregating three years, and who, if separated from such service, was never separated except under honorable conditions, may be naturalized without having resided, continuously immediately preceding the date of filing such person's application, in the United States for at least five years, and in the State or district of the Service in the United States in which the application for naturalization is filed for at least three months, and without having been physically present in the United States for any specified period, if such application is filed while the applicant is still in the service or within six months after the termination of such service.

(b) A person filing a application under subsection (a) of this section shall comply in all other respects with the requirements of this title, except that—

(1) no residence within a State or district of the Service in the United States shall be required;

(2) notwithstanding section 318 insofar as it relates to deportability, such applicant may be naturalized immediately if the applicant be then actually in the Armed Forces of the United States, and if prior to the filing of the application, the appli-

cant shall have appeared before and been examined by a representative of the Service;

(3) the applicant shall furnish to the Attorney General, prior to any final hearing upon his application, a certified statement from the proper executive department for each period of his service upon which he relies for the benefits of this section, clearly showing that such service was honorable and that no discharges from service, including periods of service not relied upon by him for the benefits of this section, were other than honorable. The certificate or certificates herein provided for shall be conclusive evidence of such service and discharge.

(c) In the case such applicant's service was not continuous, the applicant's residence in the United States and State or district of the Service in the United States, good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during any period within five years immediately preceding the date of filing such application between the periods of applicant's service in the Armed Forces, shall be alleged in the application filed under the provisions of subsection (a) of this section, and proved at any hearing thereon. Such allegation and proof shall also be made as to any period between the termination of applicant's service and the filing of the application for naturalization.

(d) The applicant shall comply with the requirements of section 316(a) of this title, if the termination of such service has been more than six months preceding the date of filing the application for naturalization, except that such service within five years immediately preceding the date of filing such application shall be considered as residence and physical presence within the United States.

(e) Any such period or periods of service under honorable conditions, and good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during such service, shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service, and such authenticated copies of records shall be accepted in lieu of compliance with the provisions of section 316(a).

NATURALIZATION THROUGH ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR I, WORLD WAR II, THE KOREAN HOSTILITIES, THE VIETNAM HOSTILITIES, OR IN OTHER PERIODS OF MILITARY HOSTILITIES

SEC. 329. [8 U.S.C. 1440] (a)²⁵³ Any person who, while an alien or a noncitizen national of the United States, has served hon-

²⁵³ Section 4 of the Act of June 30, 1950, (64 Stat. 316, as amended, 8 U.S.C. 1440 note) provides: "Notwithstanding the dates or periods of service specified and designated in section 329 of the Immigration and Nationality Act, the provisions of that section are applicable to aliens enlisted or reenlisted pursuant to the provisions of this Act and who have completed five or more years of military service, if honorably discharged therefrom. Any alien enlisted or reenlisted pursuant to the provisions of this Act who subsequently enters the United States, American Samoa, Swains Island, or the Canal Zone, pursuant to military orders shall, if otherwise qualified for citizenship, and after completion of five or more years of military service, if honorably discharged therefrom, be deemed to have been lawfully admitted to the United States for permanent residence within the meaning of such section 329(a)."

orably in an active-duty status in the military, air, or naval forces of the United States during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or during a period beginning June 25, 1950, and ending July 1, 1955, or during a period beginning February 28, 1961, and ending on a date designated by the President by Executive order as the date of termination of the Vietnam hostilities^{253a}, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and who, if separated from such service, was separated under honorable conditions, may be naturalized as provided in this section if (1) at the time of enlistment or induction such person shall have been in the United States, the Canal Zone, America Samoa, or Swains Island, whether or not he has been lawfully admitted to the United States for permanent residence, or (2) at any time subsequent to enlistment or induction such person shall have been lawfully admitted to the United States for permanent residence. The executive department under which such person served shall determine whether persons have served honorably in an active-duty status, and whether separation from such service was under honorable conditions: *Provided, however*, That no person who is or has been separated from such service on account of alienage, or who was a conscientious objector who performed no military, air, or naval duty whatever or refused to wear the uniform, shall be regarded as having served honorably or having been separated under honorable conditions for the purposes of this section. No period of service in the Armed Forces shall be made the basis of a application for naturalization under this section if the applicant has previously been naturalized on the basis of the same period of service.

(b) A person filing an application under subsection (a) of this section shall comply in all other respects with the requirements of this title, except that—²⁵⁴

Note that under an agreement between the United States and the Republic of the Philippines of December 13, 1952 [TIAS 2931, 5 UST 373; as amended by TIAS 3047, 5 UST 1714, and by TIAS 3067, 5 UST 2006], the United States obtained the right to voluntarily enlist 2,000 Filipinos into the U.S. Navy each year, for four and six year terms and up to 400 Filipinos in the U.S. Coast Guard.

See also § 405 of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5039), shown in Appendix II.A.1, regarding waiver of clauses (1) and (2) of this subsection in the case of certain natives of the Philippines who performed certain active-duty service during World War II.

^{253a} For purposes of this section, Vietnam hostilities terminated on October 15, 1978, pursuant to Executive Order 12081 (Sept. 18, 1978).

²⁵⁴ Section 3 of the Act of October 24, 1968 (82 Stat. 1343-1344) provides as follows:

SEC. 3. Notwithstanding any other provision of law, no clerk of a United States court shall charge or collect a naturalization fee from an alien who has served in the military, air, or naval forces of the United States during a period beginning February 28, 1961, and ending on the date designated by the President by Executive order as the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and who is applying for naturalization during such periods under section 329 of the Immigration and Nationality Act, as amended by this Act, for filing a petition for naturalization or issuing a certificate of naturalization upon his admission to citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected. A report of all transactions under this section shall be made to the Attorney Gen-

Continued

(1) he may be naturalized regardless of age, and notwithstanding the provisions of section 318 as they relate to deportability and the provisions of section 331;

(2) no period of residence or specified period of physical presence within the United States or any State or district of the Service in the United States shall be required; and

(3) service in the military, air, or naval forces of the United States shall be proved by a duly authenticated certification from the executive department under which the applicant served or is serving, which shall state whether the applicant served honorably in an active-duty status during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or during a period beginning June 25, 1950, and ending July 1, 1955, or during a period beginning February 28, 1961, and ending on a date designated by the President by Executive order as the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and was separated from such service under honorable conditions.

(c) Citizenship granted pursuant to this section may be revoked in accordance with section 340 of this title if at any time subsequent to naturalization the person is separated from the military, air, or naval forces under other than honorable conditions, and such ground for revocation shall be in addition to any other provided by law. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation.

POSTHUMOUS CITIZENSHIP THROUGH DEATH WHILE ON ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR I, WORLD WAR II, THE KOREAN HOSTILITIES, THE VIETNAM HOSTILITIES, OR IN OTHER PERIODS OF MILITARY HOSTILITIES ²⁵⁵

SEC. 329A. [8 U.S.C. 1440-1] (a) PERMITTING GRANTING OF POSTHUMOUS CITIZENSHIP.—Notwithstanding any other provision of this title, the Attorney General shall provide, in accordance with this section, for the granting of posthumous citizenship at the time of death to a person described in subsection (b) if the Attorney General approves an application for that posthumous citizenship under subsection (c).

(b) NONCITIZENS ELIGIBLE FOR POSTHUMOUS CITIZENSHIP.—A person referred to in subsection (a) is a person who, while an alien or a noncitizen national of the United States—

eral as in the case of other reports required of clerks of courts by title III of the Immigration and Nationality Act.

²⁵⁵ Section 329A was inserted by §2(a) of the Posthumous Citizenship for Active Duty Service Act of 1989 (Pub. L. 101-249, Mar. 6, 1990, 104 Stat. 94).

(1) served honorably in an active-duty status in the military, air, or naval forces of the United States during any period described in the first sentence of section 329(a),

(2) died as a result of injury or disease incurred in or aggravated by that service, and

(3) satisfied the requirements of clause (1) or (2) of the first sentence of section 329(a).

The executive department under which the person so served shall determine whether the person satisfied the requirements of paragraphs (1) and (2).

(c) REQUESTS FOR POSTHUMOUS CITIZENSHIP.—A request for the granting of posthumous citizenship to a person described in subsection (b) may be filed on behalf of the person only by the next-of-kin (as defined by the Attorney General) or another representative (as defined by the Attorney General). The Attorney General shall approve such a request respecting a person if—

(1) the request is filed not later than 2 years after—

(A) the date of the enactment of this section, or

(B) the date of the person's death, whichever date is later;

(2) the request is accompanied by a duly authenticated certificate from the executive department under which the person served which states that the person satisfied the requirements of paragraphs (1) and (2) of subsection (b); and

(3) the Attorney General finds that the person satisfied the requirement of subsection (b)(3).

(d) DOCUMENTATION OF POSTHUMOUS CITIZENSHIP.—If the Attorney General approves such a request to grant a person posthumous citizenship, the Attorney General shall send to the individual who filed the request a suitable document which states that the United States considers the person to have been a citizen of the United States at the time of the person's death.

(e) NO BENEFITS TO SURVIVORS.—Nothing in this section or section 319(d) shall be construed as providing for any benefits under this Act for any spouse, son, daughter, or other relative of a person granted posthumous citizenship under this section.

CONSTRUCTIVE RESIDENCE THROUGH SERVICE ON CERTAIN UNITED STATES VESSELS

SEC. 330. [8 U.S.C. 1441] Any periods of time during all of which a person who was previously lawfully admitted for permanent residence has served honorably or with good conduct, in any capacity other than as a member of the Armed Forces of the United States, (A) on board a vessel operated by the United States, or an agency thereof, the full legal and equitable title to which is in the United States; or (B) on board a vessel whose home port is in the United States, and (i) which is registered under the laws of the United States, or (ii) the full legal and equitable title to which is in a citizen of the United States, or a corporation organized under the laws of any of the several States of the United States, shall be deemed residence and physical presence within the United States within the meaning of section 316(a) of this title, if such service occurred within five years immediately preceding the date such per-

son shall file an application for naturalization. Service on vessels described in clause (A) of this section shall be proved by duly authenticated copies of the records of the executive departments or agency having custody of records of such service. Service on vessels described in clause (B) of this section may be proved by certificates from the masters of such vessels.

ALIEN ENEMIES; NATURALIZATION UNDER SPECIFIED CONDITIONS AND
PROCEDURE

SEC. 331. [8 U.S.C. 1442] (a) An alien who is a native, citizen, subject, or denizen of any country, state, or sovereignty with which the United States is at war may, after his loyalty has been fully established upon investigation by the Attorney General, be naturalized as a citizen of the United States if such alien's application for naturalization shall be pending at the beginning of the state of war and the applicant is otherwise entitled to admission to citizenship.

(b) An alien embraced within this section shall not have his application for naturalization considered or heard except after 90 days' notice to the Attorney General to be considered at the examination or hearing, and the Attorney General's objection to such consideration shall cause the application to be continued from time to time for so long as the Attorney General may require.

(c) The Attorney General may, in his discretion, upon investigation fully establishing the loyalty of any alien enemy who did not have an application for naturalization pending at the beginning of the state of war, except such alien enemy from the classification of alien enemy for the purposes of this title, and thereupon such alien shall have the privilege of filing an application for naturalization.

(d) An alien who is a native, citizen, subject, or denizen of any country, state, or sovereignty with which the United States is at war shall cease to be an alien enemy within the meaning of this section upon the determination by proclamation of the President, or by concurrent resolution of the Congress, that hostilities between the United States and such country, state, or sovereignty have ended.

(e) Nothing contained herein shall be taken or construed to interfere with or prevent the apprehension and removal, consistent with law, of any alien enemy at any time prior to the actual naturalization of such alien.

PROCEDURAL AND ADMINISTRATIVE PROVISIONS; EXECUTIVE
FUNCTIONS

SEC. 332. [8 U.S.C. 1443] (a) The Attorney General shall make such rules and regulations as may be necessary to carry into effect the provisions of this chapter and is authorized to prescribe the scope and nature of the examination of applicants for naturalization as to their admissibility to citizenship. Such examination shall be limited to inquiry concerning the applicant's residence, physical presence in the United States, good moral character, understanding of and attachment to the fundamental principles of the Constitution of the United States, ability to read, write, and speak English,

and other qualifications to become a naturalized citizen as required by law, and shall be uniform throughout the United States.

(b) The Attorney General is authorized to promote instruction and training in citizenship responsibilities of applicants for naturalization including the sending of names of candidates for naturalization to the public schools, preparing and distributing citizenship textbooks to such candidates as are receiving instruction in preparation for citizenship within or under the supervision of the public schools, preparing and distributing monthly an immigration and naturalization bulletin and securing the aid of and cooperating with official State and national organizations, including those concerned with vocational education.

(c) The Attorney General shall prescribe and furnish such forms as may be required to give effect to the provisions of this chapter, and only such forms as may be so provided shall be legal. All certificates of naturalization and of citizenship shall be printed on safety paper and shall be consecutively numbered in separate series.

(d) Employees of the Service may be designated by the Attorney General to administer oaths and to take depositions without charge in matters relating to the administration of the naturalization and citizenship laws. In cases where there is a likelihood of unusual delay or, of hardship, the Attorney General may, in his discretion, authorize such depositions to be taken before a postmaster without charge, or before a notary public or other person authorized to administer oaths for general purposes.

(e) A certificate of naturalization or of citizenship issued by the Attorney General under the authority of this title shall have the same effect in all courts, tribunals, and public offices of the United States, at home and abroad, of the District of Columbia, and of each State, Territory, and outlying possession of the United States, as a certificate of naturalization or of citizenship issued by a court having naturalization jurisdiction.

(f) Certifications and certified copies of all papers, documents, certificates, and records required or authorized to be issued, used, filed, recorded, or kept under any and all provisions of this Act shall be admitted in evidence equally with the originals in any and all cases and proceedings under this Act and in all cases and proceedings in which the originals thereof might be admissible as evidence.

(g) The officers in charge of property owned or leased by the Government are authorized, upon the recommendation of the Attorney General, to provide quarters without payment of rent, in any building occupied by the Service, for a photographic studio, operated by welfare organizations without profit and solely for the benefit of persons seeking to comply with requirements under the immigration and nationality laws. Such studio shall be under the supervision of the Attorney General.

(h)²⁵⁶ In order to promote the opportunities and responsibilities of United States citizenship, the Attorney General shall broadly distribute information concerning the benefits which persons

²⁵⁶ Subsection (h) was added by § 406 of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5039), effective on November 29, 1990, under § 408(a)(3) of that Act.

may receive under this title and the requirements to obtain such benefits. In carrying out this subsection, the Attorney General shall seek the assistance of appropriate community groups, private voluntary agencies, and other relevant organizations. There are authorized to be appropriated (for each fiscal year beginning with fiscal year 1991) such sums as may be necessary to carry out this subsection.

PHOTOGRAPHS

SEC. 333. [8 U.S.C. 1444] (a) Three identical photographs of the applicant shall be signed by and furnished by each applicant for naturalization or citizenship. One of such photographs shall be affixed by the Attorney General to the original certificate of naturalization issued to the naturalized citizen and one to the duplicate certificate of naturalization required to be forwarded to the Service.

(b) Three identical photographs of the applicant shall be furnished by each applicant for—

(1) a record of lawful admission for permanent residence to be made under section 249;

(2) a certificate of derivative citizenship;

(3) a certificate of naturalization or of citizenship;

(4) a special certificate of naturalization;

(5) a certificate of naturalization or of citizenship, in lieu of one lost, mutilated, or destroyed;

(6) a new certificate of citizenship in the new name of any naturalized citizen who, subsequent to naturalization, has had his name changed by order of a court of competent jurisdiction or by marriage; and

(7) a declaration of intention.

One such photograph shall be affixed to each such certificate issued by the Attorney General and one shall be affixed to the copy of such certificate retained by the Service.

APPLICATION FOR NATURALIZATION; DECLARATION OF INTENTION

SEC. 334. [8 U.S.C. 1445] (a) An applicant for naturalization shall make and file with the Attorney General a sworn application in writing, signed by the applicant in the applicant's own handwriting, if physically able to write, which application shall be on a form prescribed by the Attorney General and shall include averments of all facts which in the opinion of the Attorney General may be material to the applicant's naturalization, and required to be proved under this title. In ²⁵⁷ the case of an applicant subject to a requirement of continuous residence under section 316(a) or 319(a), the application for naturalization may be filed up to 3 months before the date the applicant would first otherwise meet such continuous residence requirement.

(b) No person shall file a valid application for naturalization unless he shall have attained the age of eighteen years. An application for naturalization by an alien shall contain an averment of lawful admission for permanent residence.

²⁵⁷ This sentence was added by § 401(b) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5038), effective on November 29, 1990, under § 408(a)(3) of that Act.

(c) Hearings under section 336(a) on applications for naturalization shall be held at regular intervals specified by the Attorney General.

(d) Except as provided in subsection (e), an application for naturalization shall be filed in the office of the Attorney General.

(e) A person may file an application for naturalization other than in the office of the Attorney General, and an oath of allegiance administered other than in a public ceremony before the Attorney General or a court, if the Attorney General determines that the person has an illness or other disability which—

(1) is of a permanent nature and is sufficiently serious to prevent the person's personal appearance, or

(2) is of a nature which so incapacitates the person as to prevent him from personally appearing.

(f) An alien over 18 years of age who is residing in the United States pursuant to a lawful admission for permanent residence may file with the Attorney General a declaration of intention to become a citizen of the United States. Such a declaration shall be filed in duplicate and in a form prescribed by the Attorney General and shall be accompanied by an application prescribed and approved by the Attorney General. Nothing in this subsection shall be construed as requiring any such alien to make and file a declaration of intention as a condition precedent to filing an application for naturalization nor shall any such declaration of intention be regarded as conferring or having conferred upon any such alien United States citizenship or nationality or the right to United States citizenship or nationality, nor shall such declaration be regarded as evidence of such alien's lawful admission for permanent residence in any proceeding, action, or matter arising under this or any other Act.

INVESTIGATION OF APPLICANTS; EXAMINATIONS OF APPLICATIONS

SEC. 335. [8 U.S.C. 1446] (a) Before a person may be naturalized, an employee of the Service, or of the United States designated by the Attorney General, shall conduct a personal investigation of the person applying for naturalization in the vicinity or vicinities in which such person has maintained his actual place of abode and in the vicinity or vicinities in which such person has been employed or has engaged in business or work for at least five years immediately preceding the filing of his application for naturalization. The Attorney General may, in his discretion, waive a personal investigation in an individual case or in such cases or classes of cases as may be designated by him.

(b) The Attorney General shall designate employees of the Service to conduct examinations upon applications for naturalization. For such purposes any such employee so designated is hereby authorized to take testimony concerning any matter touching or in any way affecting the admissibility of any applicant for naturalization, to administer oaths, including the oath of the applicant for naturalization, and to require by subpoena the attendance and testimony of witnesses, including applicant, before such employee so designated and the production of relevant books, papers, and documents, and to that end may invoke the aid of any district court of

the United States; and any such court may, in the event of neglect or refusal to respond to a subpoena issued by any such employee so designated or refusal to testify before such employee so designated issue an order requiring such person to appear before such employee so designated, produce relevant books, papers, and documents if demanded, and testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof. The record of the examination authorized by this subsection shall be admissible as evidence in any hearing conducted by an immigration officer under section 336(a). Any²⁵⁸ such employee shall, at the examination, inform the applicant of the remedies available to the applicant under section 336.

(c) The record of the examination upon any application for naturalization may, in the discretion of the Attorney General, be transmitted to the Attorney General and the determination with respect thereto of the employee designated to conduct such examination shall when made also be transmitted to the Attorney General.

(d) The employee designated to conduct any such examination shall make a determination as to whether the application should be granted or denied, with reasons therefor.

(e) After an application for naturalization has been filed with the Attorney General, the applicant shall not be permitted to withdraw his application, except with the consent of the Attorney General. In cases where the Attorney General does not consent to the withdrawal of the application, the application shall be determined on its merits and a final order determination made accordingly. In cases where the applicant fails to prosecute his application, the application shall be decided on the merits unless the Attorney General dismisses it for lack of prosecution.

(f) An applicant for naturalization who moves from the district of the Service in the United States in which the application is pending may, at any time thereafter, request the Service to transfer the application to any district of the Service in the United States which may act on the application. The transfer shall not be made without the consent of the Attorney General. In the case of such a transfer, the proceedings on the application shall continue as though the application had originally been filed in the district of the Service to which the application is transferred.

HEARINGS ON DENIALS OF APPLICATIONS FOR NATURALIZATION²⁵⁹

SEC. 336. [8 U.S.C. 1447] (a) If, after an examination under section 335, an application for naturalization is denied, the applicant may request a hearing before an immigration officer.

(b) If there is a failure to make a determination under section 335 before the end of the 120-day period after the date on which the examination is conducted under such section, the applicant may apply to the United States district court for the district in which the applicant resides for a hearing on the matter. Such court

²⁵⁸ This sentence was added by § 401(c) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5038), effective on November 29, 1990, under § 408(a)(3) of that Act, and was amended by § 407(c) of that Act.

²⁵⁹ This section was amended extensively by §§ 407(c)(17) and 407(d)(14) of the Immigration Act of 1990 to substitute hearings before immigration officers for final hearings before judges.

has jurisdiction over the matter and may either determine the matter or remand the matter, with appropriate instructions, to the Service to determine the matter.

(c) The Attorney General shall have the right to appear before any immigration officer in any naturalization proceedings for the purpose of cross-examining the applicant and the witnesses produced in support of the application concerning any matter touching or in any way affecting the applicant's right to admission to citizenship, and shall have the right to call witnesses, including the applicant, produce evidence, and be heard in opposition to, or in favor of, the granting of any application in naturalization proceedings.

(d) The immigration officer shall, if the applicant requests it at the time of filing the request for the hearing, issue a subpoena for the witnesses named by such applicant to appear upon the day set for the hearing, but in case such witnesses cannot be produced upon the hearing other witnesses may be summoned upon notice to the Attorney General, in such manner and at such time as the Attorney General may by regulation prescribe. Such subpoenas may be enforced in the same manner as subpoenas under section 335(b) may be enforced.

(e) It shall be lawful at the time and as a part of the administration by a court of the oath of allegiance under section 337(a) for the court, in its discretion, upon the bona fide prayer of the applicant included in an appropriate petition to the court, to make a decree changing the name of said person, and the certificate of naturalization shall be issued in accordance therewith.

OATH OF RENUNCIATION AND ALLEGIANCE

SEC. 337. [8 U.S.C. 1448] (a) A person who has applied for naturalization shall, in order to be and before being admitted to citizenship, take in a public ceremony before the Attorney General or a court with jurisdiction under section 310(b) an oath²⁶⁰ (1) to support the Constitution of the United States; (2) to renounce and abjure absolutely and entirely all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which the applicant was before a subject or citizen; (3) to support and defend the Constitution and the laws of the United States against all enemies, foreign and domestic; (4) to bear true faith and allegiance to the same; and (5) (A) to bear arms on behalf of the United States when required by the law, or (B) to perform noncombatant service in the Armed Forces of the United States when required by the law, or (C) to perform work of national importance under civilian direction when required by the law. Any such person shall be required to take an oath containing the substance of clauses (1) through (5) of the preceding sentence, except that a person who shows by clear and convincing evidence to the satisfaction of the Attorney General that he is opposed to the bearing of arms in the

²⁶⁰ Section 2 of the Act of Feb. 29, 1952 (36 U.S.C. 154) provides that "Either at the time of the rendition of the decree of naturalization or at such other time as the judge may fix, the judge or someone designated by him shall address the newly naturalized citizen upon the form and genius of our Government and the privileges and responsibilities of citizenship; it being the intent and purpose of this section to enlist the aid of the judiciary, in cooperation with civil and educational authorities, and patriotic organizations in a continuous effort to dignify and emphasize the significance of citizenship."

Armed Forces of the United States by reason of religious training and belief shall be required to take an oath containing the substance of clauses (1) through (4) and clauses (5)(B) and (5)(C), and a person who shows by clear and convincing evidence to the satisfaction of the Attorney General that he is opposed to any type of service in the Armed Forces of the United States by reason of religious training and belief shall be required to take an oath containing the substance of clauses (1) through (4) and clause (5)(C). The term "religious training and belief" as used in this section shall mean an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code. In the case of the naturalization of a child under the provisions of section 322 of this title the Attorney General may waive the taking of the oath if in the opinion of the Attorney General the child is unable to understand its meaning.

(b) In case the person applying for naturalization has borne any hereditary title, or has been of any of the orders of nobility in any foreign state, the applicant shall in addition to complying with the requirements of subsection (a) of this section, make under oath in the same public ceremony in which the oath of allegiance is administered, an express renunciation of such title or order of nobility, and such renunciation shall be recorded as a part of such proceedings.

(c)²⁶¹ Notwithstanding section 310(b), an individual may be granted an expedited judicial oath administration ceremony or administrative naturalization by the Attorney General upon demonstrating sufficient cause. In determining whether to grant an expedited judicial oath administration ceremony, a court shall consider special circumstances (such as serious illness of the applicant or a member of the applicant's immediate family, permanent disability sufficiently incapacitating as to prevent the applicant's personal appearance at the scheduled ceremony, developmental disability or advanced age, or exigent circumstances relating to travel or employment). If an expedited judicial oath administration ceremony is impracticable, the court shall refer such individual to the Attorney General who may provide for immediate administrative naturalization.

(d) The Attorney General shall prescribe rules and procedures to ensure that the ceremonies conducted by the Attorney General for the administration of oaths of allegiance under this section are public, conducted frequently and at regular intervals, and are in keeping with the dignity of the occasion.

CERTIFICATE OF NATURALIZATION; CONTENTS

SEC. 338. [8 U.S.C. 1449] A person admitted to citizenship in conformity with the provisions of this title shall be entitled upon such admission to receive from the Attorney General a certificate of naturalization, which shall contain substantially the following

²⁶¹ Section (c) was amended in its entirety by § 102(b)(2) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1736), effective as of January 11, 1992.

information: Number of application for naturalization; number of certificate of naturalization; date of naturalization; name, signature, place of residence, autographed photograph, and personal description of the naturalized person, including age, sex, marital status, and country of former nationality; location of the district office of the Service in which the application was filed and the title, authority, and location of the official or court administering the oath of allegiance; statement that the Attorney General, having found that the applicant^{261a} had complied in all respects with all of the applicable provisions of the naturalization laws of the United States, and was entitled to be admitted a citizen of the United States of America, thereupon ordered that the applicant be admitted as a citizen of the United States of America; attestation of an immigration officer; and the seal of the Department of Justice.

FUNCTIONS AND DUTIES OF CLERKS AND RECORDS OF DECLARATIONS
OF INTENTION AND APPLICATIONS FOR NATURALIZATION²⁶²

SEC. 339. [8 U.S.C. 1450] (a) The clerk of each court that administers oaths of allegiance under section 337 shall—

(1) deliver to each person administered the oath of allegiance by the court pursuant to section 337(a) the certificate of naturalization prepared by the Attorney General pursuant to section 310(b)(2)(A)(ii),

(2) forward to the Attorney General a list of applicants actually taking the oath at each scheduled ceremony and information concerning each person to whom such an oath is administered by the court, within 30 days after the close of the month in which the oath was administered,

(3) forward to the Attorney General certified copies of such other proceedings and orders instituted in or issued out of the court affecting or relating to the naturalization of persons as may be required from time to time by the Attorney General, and

(4) be responsible for all blank certificates of naturalization received by them from time to time from the Attorney General and shall account to the Attorney General for them whenever required to do so.

No certificate of naturalization received by any clerk of court which may be defaced or injured in such manner as to prevent its use as herein provided shall in any case be destroyed, but such certificates shall be returned to the Attorney General.

(b) Each district office of the Service in the United States shall maintain, in chronological order, indexed, and consecutively numbered, as part of its permanent records, all declarations of intention and applications for naturalization filed with the office.

^{261a} § 104(a) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4308, Oct. 25, 1994) struck “intends to reside permanently in the United States, except in cases falling within the provisions of section 324(a) of this title,” applicable to persons admitted to citizenship on or after October 25, 1994 under § 104(e) of that Act.

²⁶² Section 339 was amended in its entirety by § 407(d)(17) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5045) and was further amended by § 102(b)(1) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1735), effective as of January 11, 1992.

NOTE.—There is no footnote #263.

REVOCATION OF NATURALIZATION

SEC. 340. [8 U.S.C. 1451] (a) It shall be the duty of the United States attorneys for the respective districts, upon affidavit showing good cause therefor, to institute proceedings in any district court of the United States in the judicial district in which the naturalized citizen may reside at the time of bringing suit, for the purpose of revoking and setting aside the order admitting such person to citizenship and canceling the certificate of naturalization on the ground that such order and certificate of naturalization were illegally procured or were procured by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively: *Provided*, That refusal on the part of a naturalized citizen within a period of ten years following his naturalization to testify as a witness in any proceeding before a congressional committee concerning his subversive activities, in a case where such person has been convicted for contempt for such refusal, shall be held to constitute a ground for revocation of such person's naturalization under this subsection as having been procured by concealment of a material fact or by willful misrepresentation. If the naturalized citizen does not reside in any judicial district in the United States at the time of bringing such suit, the proceedings may be instituted in the United States District Court for the District of Columbia or in the United States district court in the judicial district in which such person last had his residence.

(b) The party to whom was granted the naturalization alleged to have been illegally procured or procured by concealment of a material fact or by willful misrepresentation shall, in any such proceedings under subsection (a) of this section, have sixty days' personal notice, unless waived by such party, in which to make answer to the petition of the United States; and if such naturalized person be absent from the United States or from the judicial district in which such person last had his residence, such notice shall be given either by personal service upon him or by publication in the manner provided for the service of summons by publication or upon absentees by the laws of the State or the place where such suit is brought.

(c) If a person who shall have been naturalized after December 24, 1952 shall within five years next following such naturalization become a member of or affiliated with any organization, membership in or affiliation with which at the time of naturalization would have precluded such person from naturalization under the provisions of section 313, it shall be considered prima facie evidence that such person was not attached to the principles of the Constitution of the United States and was not well disposed to the good order and happiness of the United States at the time of naturalization, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the revocation and setting aside of the order admitting such person to citizenship and the cancellation of the certificate of naturalization as having been obtained by concealment of a material fact or by willful misrepresentation,

and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively.

(d)²⁶⁶ Any person who claims United States citizenship through the naturalization of a parent or spouse in whose case there is a revocation and setting aside of the order admitting such parent or spouse to citizenship under the provisions of subsection (a) of this section on the ground that the order and certificate of naturalization were procured by concealment of a material fact or by willful misrepresentation shall be deemed to have lost and to lose his citizenship and any right or privilege of citizenship which he may have, now has, or may hereafter acquire under and by virtue of such naturalization of such parent or spouse, regardless of whether such person is residing within or without the United States at the time of the revocation and setting aside of the order admitting such parent or spouse to citizenship. Any person who claims United States citizenship through the naturalization of a parent or spouse in whose case there is a revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization under the provisions of subsection (c) of this section, or under the provisions of section 329(c) of this title on any ground other than that the order and certificate of naturalization were procured by concealment of a material fact or by willful misrepresentation, shall be deemed to have lost and to lose his citizenship and any right or privilege of citizenship which would have been enjoyed by such person had there not been a revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization, unless such person is residing in the United States at the time of the revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization.

(e) When a person shall be convicted under section 1425 of title 18 of the United States Code of knowingly procuring naturalization in violation of law, the court in which such conviction is had shall thereupon revoke, set aside, and declare void the final order admitting such person to citizenship, and shall declare the certificate of naturalization of such person to be canceled. Jurisdiction is hereby conferred on the courts having jurisdiction of the trial of such offense to make such adjudication.

(f) Whenever an order admitting an alien to citizenship shall be revoked and set aside or a certificate of naturalization shall be canceled, or both, as provided in this section, the court in which such judgment or decree is rendered shall make an order canceling such certificate and shall send a certified copy of such order to the Attorney General. The clerk of court shall transmit a copy of such

NOTE.—There are no footnotes ##264 or 265.

²⁶⁶ Former subsection (d) was repealed by § 104(b) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4308, Oct. 25, 1994), applicable to persons admitted to citizenship on or after October 25, 1994 under § 104(e) of that Act, and subsequent subsections were redesignated respectively by § 104(c) of that Act. In addition, the former subsection (e) was stricken by § 9(dd)(2) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2621) and subsequent subsections were redesignated accordingly.

order and judgment to the Attorney General. A person holding a certificate of naturalization or citizenship which has been canceled as provided by this section shall upon notice by the court by which the decree of cancellation was made, or by the Attorney General, surrender the same to the Attorney General.

(g) The provisions of this section shall apply not only to any naturalization granted and to certificates of naturalization and citizenship issued under the provisions of this title, but to any naturalization heretofore granted by any court, and to all certificates of naturalization and citizenship which may have been issued heretofore by any court or by the Commissioner based upon naturalization granted by any court, or by a designated representative of the Commissioner under the provisions of section 702 of the Nationality Act of 1940, as amended, or by such designated representative under any other Act.

(h) Nothing contained in this section shall be regarded as limiting, denying, or restricting the power of the Attorney General to correct, reopen, alter, modify, or vacate an order naturalizing the person.

CERTIFICATES OF CITIZENSHIP OR U.S. NON-CITIZEN NATIONAL
STATUS; PROCEDURE

SEC. 341. [8 U.S.C. 1452] (a) A person who claims to have derived United States citizenship through the naturalization of a parent or through the naturalization or citizenship of a husband, or who is a citizen of the United States by virtue of the provisions of section 1993 of the United States Revised Statutes, or of section 1993 of the United States Revised Statutes, as amended by section 1 of the Act of May 24, 1934 (48 Stat. 797), or who is a citizen of the United States by virtue of the provisions of subsection (c), (d), (e), (g), or (i) of section 201 of the Nationality Act of 1940, as amended (54 Stat. 1138; 8 U.S.C. 601), or of the Act of May 7, 1934 (48 Stat. 667), or of paragraph (c), (d), (e), or (g) of section 301 of this title, or under the provisions of the Act of August 4, 1937 (50 Stat. 558), or under the provisions of section 203 or 205 of the Nationality Act of 1940 (54 Stat. 1139; 8 U.S.C. 603, 605), or under the provisions of section 303 of this title, may apply to the Attorney General for a certificate of citizenship. Upon proof to the satisfaction of the Attorney General that the applicant is a citizen, and that the applicant's alleged citizenship was derived as claimed, or acquired, as the case may be, and upon taking and subscribing before a member of the Service within the United States to the oath of allegiance required by this Act of an applicant for naturalization, such individual shall be furnished by the Attorney General with a certificate of citizenship, but only if such individual is at the time within the United States.

(b) A person who claims to be a national, but not a citizen, of the United States may apply to the Secretary of State for a certificate of non-citizen national status. Upon—

(1) proof to the satisfaction of the Secretary of State that the applicant is a national, but not a citizen, of the United States, and

(2) in the case of such a person born outside of the United States or its outlying possessions, taking and subscribing, before an immigration officer within the United States or its outlying possessions, to the oath of allegiance required by this Act of a petitioner for naturalization, the individual shall be furnished by the Secretary of State with a certificate of non-citizen national status, but only if the individual is at the time within the United States or its outlying possessions.^{266a}

CANCELLATION OF CERTIFICATES ISSUED BY THE ATTORNEY GENERAL, THE COMMISSIONER OR A DEPUTY COMMISSIONER; ACTION NOT TO AFFECT CITIZENSHIP STATUS

SEC. 342. [8 U.S.C. 1453] The Attorney General is authorized to cancel any certificate of citizenship, certificate of naturalization, copy of a declaration of intention, or other certificate, document or record heretofore issued or made by the Commissioner or a Deputy Commissioner or hereafter made by the Attorney General if it shall appear to the Attorney General's satisfaction that such document or record was illegally or fraudulently obtained from, or was created through illegality or by fraud practiced upon, him or the Commissioner or a Deputy Commissioner; but the person for or to whom such document or record has been issued or made shall be given at such person's last-known place of address written notice of the intention to cancel such document or record with the reasons therefor and shall be given at least sixty days in which to show cause why such document or record should not be canceled. The cancellation under this section of any document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued.

DOCUMENTS AND COPIES ISSUED BY THE ATTORNEY GENERAL

SEC. 343. [8 U.S.C. 1454] (a) If any certificate of naturalization or citizenship issued to any citizen or any declaration of intention furnished to any declarant is lost, mutilated, or destroyed, the citizen or declarant may make application to the Attorney General for a new certificate or declaration. If the Attorney General finds that the certificate or declaration is lost, mutilated, or destroyed, he shall issue to the applicant a new certificate or declaration. If the certificate or declaration has been mutilated, it shall be surrendered to the Attorney General before the applicant may receive such new certificate or declaration. If the certificate or declaration has been lost, the applicant or any other person who shall have, or may come into possession of it is hereby required to surrender it to the Attorney General.

(b) The Attorney General shall issue for any naturalized citizen, on such citizen's application therefor, a special certificate of naturalization for use by such citizen only for the purpose of obtaining recognition as a citizen of the United States by a foreign

^{266a} Subsection (c) was repealed by § 102(b) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4307, Oct. 25, 1994), effective as of April 1, 1995, under § 102(d) of that Act.

state. Such certificate when issued shall be furnished to the Secretary of State for transmission to the proper authority in such foreign state.

(c) If the name of any naturalized citizen has, subsequent to naturalization, been changed by order of any court of competent jurisdiction, or by marriage, the citizen may make application for a new certificate of naturalization in the new name of such citizen. If the Attorney General finds the name of the applicant to have been changed as claimed, the Attorney General shall issue to the applicant a new certificate and shall notify the naturalization court of such action.

(d) The Attorney General is authorized to make and issue certifications of any part of the naturalization records of any court, or of any certificate of naturalization or citizenship, for use in complying with any statute, State or Federal, or in any judicial proceeding. No such certification shall be made by any clerk of court except upon order of the court.

FISCAL PROVISIONS

SEC. 344. [8 U.S.C. 1455] (a) The Attorney General shall charge, collect, and account for fees prescribed by the Attorney General pursuant to section 9701 of title 31, United States Code for the following:

(1) Making, filing, and docketing an application for naturalization, including the hearing on such application, if such hearing be held, and a certificate of naturalization, if the issuance of such certificate is authorized by Attorney General.

(2) Receiving and filing a declaration of intention, and issuing a duplicate thereof.

(b) Notwithstanding the provisions of this Act or any other law, no fee shall be charged or collected for an application for declaration of intention or a certificate of naturalization in lieu of a declaration or a certificate alleged to have been lost, mutilated, or destroyed, submitted by a person who was a member of the military or naval forces of the United States at any time after April 20, 1898, and before July 5, 1902; or at any time after April 5, 1917, and before November 12, 1918; or who served on the Mexican border as a member of the Regular Army or National Guard between June 1916 and April 1917; or who has served or hereafter serves in the military, air, or naval forces of the United States after September 16, 1940, and who was not at any time during such period or thereafter separated from such forces under other than honorable conditions, who was not a conscientious objector who performed no military duty whatever or refused to wear the uniform, or who was not at any time during such period or thereafter discharged from such military, air, or naval forces on account of alienage.

(c) All fees collected by the Attorney General shall be deposited by the Attorney General in the Treasury of the United States except²⁶⁷ that all fees collected by the Attorney General, on or after

²⁶⁷ The exception was inserted by § 209(b) of the Department of Justice Appropriations Act, 1989 (in Pub. L. 100-459, Oct. 1, 1988, 102 Stat. 2203), as amended by § 309(a)(1)(A)(ii) of Mis-

October 1, 1988, under the provisions of this title, shall be deposited in the "Immigration Examinations Fee Account" in the Treasury of the United States established pursuant to the provisions of sections 286 (m), (n), (o), and (p): *Provided, however,* That all fees received by the Attorney General from applicants residing in the Virgin Islands of the United States, and in Guam, under this title, shall be paid over to the treasury of the Virgin Islands and to the treasury of Guam, respectively.

(d) During the time when the United States is at war the Attorney General may not charge or collect a naturalization fee from an alien in the military, air, or naval service of the United States for filing an application for naturalization or issuing a certificate of naturalization upon admission to citizenship.

(e) In addition to the other fees required by this title, the applicant for naturalization shall, upon the filing of an application for naturalization, deposit with and pay to the Attorney General a sum of money sufficient to cover the expenses of subpoenaing and paying the legal fees of any witnesses for whom such applicant may request a subpoena, and upon the final discharge of such witnesses, they shall receive, if they demand the same from the Attorney General, the customary and usual witness fees from the moneys which the applicant shall have paid to the Attorney General for such purpose, and the residue, if any, shall be returned by the Attorney General to the applicant.

(f)(1)²⁶⁸ The Attorney General shall pay over to courts administering oaths of allegiance to persons under this title a specified percentage of all fees described in subsection (a)(1) collected by the Attorney General with respect to persons administered the oath of allegiance by the respective courts. The Attorney General, annually and in consultation with the courts, shall determine the specified percentage based on the proportion, of the total costs incurred by the Service and courts for essential services directly related to the naturalization process, which are incurred by courts.

(2) The Attorney General shall provide on an annual basis to the Committees on the Judiciary of the House of Representatives and of the Senate a detailed report on the use of the fees described in paragraph (1) and shall consult with such Committees before increasing such fees.

[Section 345 was repealed by § 12(c) of Public Law 86-682.]

**AUTHORIZATION GRANTED FOR PUBLICATION AND DISTRIBUTION OF
CITIZENSHIP TEXTBOOKS FROM NATURALIZATION FEES**

SEC. 346. [8 U.S.C. 1457] Authorization is hereby granted for the publication and distribution of the citizenship textbook described in subsection (b) of section 332 and for the reimbursement of the appropriation of the Department of Justice upon the records of the Treasury Department from the naturalization fees deposited in the Treasury through the Service for the cost of such publication

cellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1758).

²⁶⁸ Section (f) was added by § 102(b)(3) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1735), effective as of January 11, 1992.

and distribution, such reimbursement to be made upon statements by the Attorney General of books so published and distributed.

COMPILATION OF NATURALIZATION STATISTICS AND PAYMENT FOR EQUIPMENT

SEC. 347. [8 U.S.C. 1458] The Attorney General is authorized and directed to prepare from the records in the custody of the Service a report upon those heretofore seeking citizenship to show by nationalities their relation to the numbers of aliens annually arriving and to the prevailing census populations of the foreign-born, their economic, vocational, and other classification, in statistical form, with analytical comment thereon, and to prepare such report annually hereafter. Payment for the equipment used in preparing such compilation shall be made from the appropriation for the enforcement of this Act by the Service.

[Section 348 was repealed by § 407(d)(20) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5046).]

CHAPTER 3—LOSS OF NATIONALITY

LOSS OF NATIONALITY BY NATIVE-BORN OR NATURALIZED CITIZEN

SEC. 349. [8 U.S.C. 1481] (a) A person who is a national of the United States whether by birth or naturalization, shall lose his nationality by voluntarily performing any of the following acts with the intention of relinquishing United States nationality—

(1) obtaining naturalization in a foreign state upon his own application or upon an application filed by a duly authorized agent, after having attained the age of eighteen years; or

(2) taking an oath or making an affirmation or other formal declaration of allegiance to a foreign state or a political subdivision thereof, after having attained the age of eighteen years; or

(3) entering, or serving in, the armed forces of a foreign state if (A) such armed forces are engaged in hostilities against the United States, or (B) such persons serve as a commissioned or non-commissioned officer; or

(4)(A) accepting, serving in, or performing the duties of any office, post, or employment under the government of a foreign state or a political subdivision thereof, after attaining the age of eighteen years if he has or acquires the nationality of such foreign state; or (B) accepting, serving in, or performing the duties of any office, post, or employment under the government of a foreign state or a political subdivision thereof, after attaining the age of eighteen years for which office, post, or employment an oath, affirmation, or declaration of allegiance is required; or

(5) making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state, in such form as may be prescribed by the Secretary of State; or

(6) making in the United States a formal written renunciation of nationality in such form as may be prescribed by, and

before such officer as may be designated by, the Attorney General, whenever the United States shall be in a state of war and the Attorney General shall approve such renunciation as not contrary to the interests of national defense; or

(7) committing any act of treason against, or attempting by force to overthrow, or bearing arms against, the United States, violating or conspiring to violate any of the provisions of section 2383 of title 18, United States Code, or willfully performing any act in violation of section 2385 of title 18, United States Code, or violating section 2384 of said title by engaging in a conspiracy to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, if and when he is convicted thereof by a court martial or by a court of competent jurisdiction.

[Former subsection (b) was stricken by § 19(1) of Pub. L. 99-653 (Nov. 14, 1986, 100 Stat. 3658).]

(b) Whenever the loss of United States nationality is put in issue in any action or proceeding commenced on or after the enactment of this subsection under, or by virtue of, the provisions of this or any other Act, the burden shall be upon the person or party claiming that such loss occurred, to establish such claim by a preponderance of the evidence. Any person who commits or performs, or who has committed or performed, any act of expatriation under the provisions of this or any other Act shall be presumed to have done so voluntarily, but such presumption may be rebutted upon a showing, by a preponderance of the evidence, that the act or acts committed or performed were not done voluntarily.

[Section 350 was repealed.]

RESTRICTIONS ON LOSS OF NATIONALITY²⁶⁹

SEC. 351. [8 U.S.C. 1483] (a) Except as provided in paragraphs (6) and (7) of section 349(a) of this title, no national of the United States can lose United States nationality, under this Act while within the United States or any of its outlying possessions, but loss of nationality shall result from the performance within the United States or any of its outlying possessions of any of the acts or the fulfillment of any of the conditions specified in this chapter if and when the national thereafter takes up a residence outside the United States and its outlying possessions.

(b) A national who within six months after attaining the age of eighteen years asserts his claim to United States nationality, in

²⁶⁹ This section was amended by § 105(a) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4308, Oct. 25, 1994) by substituting references to "loss of nationality" for "expatriation"; the comma in subsection (a) after "nationality" was inadvertently not stricken. Section 1999 of the Revised Statutes of the United States (8 U.S.C. 1481 note) provides as follows: "Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle this Government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore any declaration, instruction, opinion, order, or decision of any officer of the United States which denies, restricts, impairs, or questions the right of expatriation, is declared inconsistent with the fundamental principles of the Republic."

such manner as the Secretary of State shall by regulation prescribe, shall not be deemed to have lost United States nationality by the commission, prior to his eighteenth birthday, of any of the acts specified in paragraphs (3) and (5) of section 349(a) of this title.

【Sections 352 through 355 were repealed.】

NATIONALITY LOST SOLELY FROM PERFORMANCE OF ACTS OR
FULFILLMENT OF CONDITIONS

SEC. 356. [8 U.S.C. 1488] The loss of nationality under this chapter shall result solely from the performance by a national of the acts or fulfillment of the conditions specified in this chapter.

APPLICATION OF TREATIES; EXCEPTIONS

SEC. 357. [8 U.S.C. 1489] Nothing in this title shall be applied in contravention of the provisions of any treaty or convention to which the United States is a party and which has been ratified by the Senate before December 25, 1952: *Provided, however,* That no woman who was a national of the United States shall be deemed to have lost her nationality solely by reason of her marriage to an alien on or after September 22, 1922, or to an alien racially ineligible to citizenship on or after March 3, 1931, or, in the case of a woman who was a United States citizen at birth, through residence abroad following such marriage, notwithstanding the provisions of any existing treaty or convention.

CHAPTER 4—MISCELLANEOUS

CERTIFICATE OF DIPLOMATIC OR CONSULAR OFFICER OF THE UNITED
STATES AS TO LOSS OF AMERICAN NATIONALITY UNDER CHAPTER IV,
NATIONALITY ACT OF 1940, OR UNDER CHAPTER 3 OF THIS TITLE

SEC. 358. [8 U.S.C. 1501] Whenever a diplomatic or consular officer of the United States has reason to believe that a person while in a foreign state has lost his United States nationality under any provision of chapter 3 of this title, or under any provision of chapter IV of the Nationality Act of 1940, as amended, he shall certify the facts upon which such belief is based to the Department of State, in writing, under regulations prescribed by the Secretary of State. If the report of the diplomatic or consular officer is approved by the Secretary of State, a copy of the certificate shall be forwarded to the Attorney General, for his information, and the diplomatic or consular office in which the report was made shall be directed to forward a copy of the certificate to the person to whom it relates. Approval^{269a} by the Secretary of State of a certificate under this section shall constitute a final administrative determination of loss of United States nationality under this Act, subject to such procedures for administrative appeal as the Secretary may prescribe by regulation, and also shall constitute a denial of a right or privilege of United States nationality for purposes of section 360.

^{269a} This sentence was added by § 106 of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4309, Oct. 25, 1994).

CERTIFICATE OF NATIONALITY TO BE ISSUED BY THE SECRETARY OF STATE FOR A PERSON NOT A NATURALIZED CITIZEN OF THE UNITED STATES FOR USE IN PROCEEDINGS OF A FOREIGN STATE

SEC. 359. [8 U.S.C. 1502] The Secretary of State is hereby authorized to issue, in his discretion and in accordance with rules and regulations prescribed by him, a certificate of nationality for any person not a naturalized citizen of the United States who presents satisfactory evidence that he is an American national and that such certificate is needed for use in judicial or administrative proceedings in a foreign state. Such certificate shall be solely for use in the case for which it was issued and shall be transmitted by the Secretary of State through appropriate official channels to the judicial or administrative officers of the foreign state in which it is to be used.

PROCEEDINGS FOR DECLARATION OF UNITED STATES NATIONALITY IN THE EVENT OF DENIAL OF RIGHTS AND PRIVILEGES AS NATIONAL

SEC. 360. [8 U.S.C. 1503] (a) If any person who is within the United States claims a right or privilege as a national of the United States and is denied such right or privilege by any department or independent agency, or official thereof, upon the ground that he is not a national of the United States, such person may institute an action under the provisions of section 2201 of title 28, United States Code, against the head of such department or independent agency for a judgment declaring him to be a national of the United States, except that no such action may be instituted in any case if the issue of such person's status as a national of the United States (1) arose by reason of or in connection with any exclusion proceeding under the provisions of this or any other act, or (2) is in issue in any such exclusion proceeding. An action under this subsection may be instituted only within five years after the final administrative denial of such right or privilege and shall be filed in the district court of the United States for the district in which such person resides or claims a residence, and jurisdiction over such officials in such cases is hereby conferred upon those courts.

(b) If any person who is not within the United States claims a right or privilege as a national of the United States and is denied such right or privilege by any department or independent agency, or official thereof, upon the ground that he is not a national of the United States, such person may make application to a diplomatic or consular officer of the United States in the foreign country in which he is residing for a certificate of identity for the purpose of traveling to a port of entry in the United States and applying for admission. Upon proof to the satisfaction of such diplomatic or consular officer that such application is made in good faith and has a substantial basis, he shall issue to such person a certificate of identity. From any denial of an application for such certificate the applicant shall be entitled to an appeal to the Secretary of State, who, if he approves the denial, shall state in writing his reasons for his decision. The Secretary of State shall prescribe rules and regulations for the issuance of certificates of identity as above provided. The provisions of this subsection shall be applicable only to a person who at some time prior to his application for the certifi-

cate of identity has been physically present in the United States, or to a person under sixteen years of age who was born abroad of a United States citizen parent.

(c) A person who has been issued a certificate of identity under the provisions of subsection (b), and while in possession thereof, may apply for admission to the United States at any port of entry, and shall be subject to all the provisions of this Act relating to the conduct of proceedings involving aliens seeking admission to the United States. A final determination by the Attorney General that any such person is not entitled to admission to the United States shall be subject to review by any court of competent jurisdiction in habeas corpus proceedings and not otherwise. Any person described in this section who is finally excluded from admission to the United States shall be subject to all the provisions of this Act relating to aliens seeking admission to the United States.

CANCELLATION OF UNITED STATES PASSPORTS AND CONSULAR
REPORTS OF BIRTH^{269b}

SEC. 361. [8 U.S.C. 1504] (a) The Secretary of State is authorized to cancel any United States passport or Consular Report of Birth, or certified copy thereof, if it appears that such document was illegally, fraudulently, or erroneously obtained from, or was created through illegality or fraud practiced upon, the Secretary. The person for or to whom such document has been issued or made shall be given, at such person's last known address, written notice of the cancellation of such document, together with the procedures for seeking a prompt post-cancellation hearing. The cancellation under this section of any document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued.

(b) For purposes of this section, the term "Consular Report of Birth" refers to the report, designated as a "Report of Birth Abroad of a Citizen of the United States", issued by a consular officer to document a citizen born abroad.

TITLE IV—MISCELLANEOUS AND REFUGEE ASSISTANCE

CHAPTER 1—MISCELLANEOUS

[JOINT CONGRESSIONAL COMMITTEE]

[SEC. 401. Repealed.]

AMENDMENTS TO OTHER LAWS

SEC. 402. [omitted as executed]

LAWS REPEALED

SEC. 403. [omitted as executed]

^{269b} This section was added by § 107(a) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4309, Oct. 25, 1994).

AUTHORIZATION OF APPROPRIATIONS ²⁷⁰

SEC. 404. [8 U.S.C. 1101, note] (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act (other than chapter 2 of title IV).

(b)(1)²⁷¹ There are authorized to be appropriated (for fiscal year 1991 and any subsequent fiscal year) to an immigration emergency fund, to be established in the Treasury, an amount sufficient to provide for a balance of \$35,000,000 in such fund, to be used to carry out paragraph (2) and to provide for an increase in border patrol or other enforcement activities of the Service and for reimbursement of State and localities in providing assistance as requested by the Attorney General in meeting an immigration emergency, except that no amounts may be withdrawn from such fund with respect to an emergency unless the President has determined that the immigration emergency exists and has certified such fact to the Judiciary Committees of the House of Representatives and of the Senate.

(2)(A)²⁷¹ Funds which are authorized to be appropriated by paragraph (1), subject to the dollar limitation contained in subparagraph (B), shall be available, by application for the reimbursement of States and localities providing assistance as required by the Attorney General, to States and localities whenever—

(i)²⁷² a district director of the Service certifies to the Commissioner that the number of asylum applications filed in the

²⁷⁰ § 204 of Pub. L. 94-503 (90 Stat. 2427) provides as follows:

AUTHORIZING JURISDICTION

SEC. 204. No sums shall be deemed to be authorized to be appropriated for any fiscal year beginning on or after October 1, 1978, for the Department of Justice (including any bureau, agency, or other similar subdivision thereof) except as specifically authorized by Act of Congress with respect to such fiscal year. Neither the creation of a subdivision in the Department of Justice, nor the authorization of an activity of the Department, any subdivision, or officer thereof, shall be deemed in itself to be an authorization of appropriations for the Department of Justice, such subdivision, or activity, with respect to any fiscal year beginning on or after October 1, 1978.

²⁷¹ This subsection was amended by § 705(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5087), including the addition of paragraph (2).

§ 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992 (Pub. L. 102-140, Oct. 28, 1991, 105 Stat. 832), as amended by § 219(l)(2) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4317, Oct. 25, 1994), provides as follows:

SEC. 610. REGULATIONS REQUIRED.—(a) The Attorney General shall prescribe regulations under title 5, United States Code, to carry out section 404(b)(1) of the Immigration and Nationality Act, including a delineation of (1) scenarios that constitute an immigration emergency, (2) the process by which the President declares an immigration emergency, (3) the role of the Governor and local officials in requesting a declaration of emergency, (4) a definition of “assistance as required by the Attorney General”, and (5) the process by which States and localities are to be reimbursed.

(b) The Attorney General shall prescribe regulations under title 5, United States Code, to carry out section 404(b)(2) of such Act, including providing a definition of the terms in section 404(b)(2)(A)(ii) and a delineation of “in any other circumstances” in section 404(b)(2)(A)(iii) of such Act.

(c) The regulations under this section shall be published for comment not later than 30 days after the date of enactment of this Act and issued in final form not later than 15 days after the end of the comment period.

NOTE.—See footnote 271 on previous page.

²⁷² § 705(b) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5087) provides as follows:

(b) EFFECTIVE DATE.—Section 404(b)(2)(A)(i) of the Immigration and Nationality Act, as added by the amendment made by subsection (a)(5), shall apply with respect to increases in the number of asylum applications filed in a calendar quarter beginning on or after January 1, 1989.

Continued

respective district during a calendar quarter exceeds by at least 1,000 the number of such applications filed in that district during the preceding calendar quarter,

(ii) the lives, property, safety, or welfare of the residents of a State or locality are endangered, or

(iii) in any other circumstances as determined by the Attorney General.

In applying clause (i), the providing of parole at a point of entry in a district shall be deemed to constitute an application for asylum in the district.²⁷³

(B) Not more than \$20,000,000 shall be made available for all localities under this paragraph.

(C) For purposes of subparagraph (A), the requirement of paragraph (1) that an immigration emergency be determined shall not apply.

(D) A decision with respect to an application for reimbursement under subparagraph (A) shall be made by the Attorney General within 15 days after the date of receipt of the application.

SAVINGS CLAUSES

SEC. 405. [8 U.S.C. 1101, note] (a) Nothing contained in this Act, unless otherwise specifically provided therein, shall be construed to affect the validity of any declaration of intention, petition for naturalization, certificate of naturalization, certificate of citizenship, warrant of arrest, order or warrant of deportation, order of exclusion, or other document or proceeding which shall be valid at the time this Act shall take effect; or to affect any prosecution, suit, action, or proceedings, civil or criminal, brought, or any status, condition, right in process of acquisition, act, thing, liability, obligation, or matter, civil or criminal, done or existing, at the time this Act shall take effect; but as to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, liabilities, obligations, or matters the statutes or parts of statutes repealed by this Act are, unless otherwise specifically provided therein, hereby continued in force and effect. When an immigrant, in possession of an unexpired immigrant visa issued prior to the effective date of this Act, makes application for admission, his admissibility shall be determined under the provisions of law in effect on the date of the issuance of such visa. An application for suspension of deportation under section 19 of the Immigration Act of 1917, as amended, or for adjustment of status under section 4 of the Displaced Persons Act of 1948, as amended, which is pending on the date of enactment of this Act, shall be regarded as a proceeding within the meaning of this subsection.

(b) Except as otherwise specifically provided in title III, any petition for naturalization heretofore filed which may be pending at the time this Act shall take effect shall be heard and determined in accordance with the requirements of law in effect when such petition was filed.

The Attorney General may not spend any amounts from the immigration emergency fund pursuant to the amendments made by subsection (a) before October 1, 1991.

²⁷³The sentence was added by §308(d) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Pub. L. 102-232, Dec. 12, 1991, 105 Stat. 1757).

(c) Except as otherwise specifically provided in this Act, the repeal of any statute by this Act shall not terminate nationality heretofore lawfully acquired nor restore nationality heretofore lost under any law of the United States or any treaty to which the United States may have been a party.

(d) Except as otherwise specifically provided in this Act, or any amendment thereto, fees, charges and prices for purposes specified in title V of the Independent Offices Appropriation Act, 1952 (Public Law 137, Eighty-second Congress, approved August 31, 1951), may be fixed and established in the manner and by the head of any Federal Agency as specified in that Act.

(e) This Act shall not be construed to repeal, alter, or amend section 231(a) of the Act of April 30, 1946 (60 Stat. 148; 22 U.S.C. 1281(a)), the Act of June 20, 1949 (Public Law 110, section 8, Eighty-first Congress, first session; 63 Stat. 208), the Act of June 5, 1950 (Public Law 535, Eighty-first Congress, second session), nor title V of the Agricultural Act of 1949, as amended (Public Law 78, Eighty-second Congress, first session).

SEPARABILITY

SEC. 406. [8 U.S.C. 1101, note] If any particular provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 407. [8 U.S.C. 1101, note] Except as provided in subsection (k) of section 401, this Act shall take effect at 12:01 ante meridian United States Eastern Standard Time on the one hundred eightieth day²⁷⁴ immediately following the date of its enactment.

CHAPTER 2—REFUGEE ASSISTANCE

OFFICE OF REFUGEE RESETTLEMENT

SEC. 411. [8 U.S.C. 1521] (a) There is established, within the Department of Health and Human Services, an office to be known as the Office of Refugee Resettlement (hereinafter in this chapter referred to as the "Office"). The head of the Office shall be a Director (hereinafter in this chapter referred to as the "Director"), to be appointed by the Secretary of Health and Human Services (hereinafter in this chapter referred to as the "Secretary").

(b) The function of the Office and its Director is to fund and administer (directly or through arrangements with other Federal agencies), in consultation with the Secretary of State^{274a}, programs of the Federal Government under this chapter.

²⁷⁴ The Act took effect on December 24, 1952.

^{274a} Paragraph (1) of § 162(n) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (P.L. 103-236, 108 Stat. 409, Apr. 30, 1994) substituted a reference to the Secretary of State for a reference to the U.S. Coordinator for Refugee Affairs; paragraphs (2) and (3) of that section deleted subsequent references in §§ 412 and 413 to the Coordinator.

AUTHORIZATION FOR PROGRAMS FOR DOMESTIC RESETTLEMENT OF
AND ASSISTANCE TO REFUGEES

SEC. 412. [8 U.S.C. 1522] (a) CONDITIONS AND CONSIDERATIONS.—(1)(A) In providing assistance under this section, the Director shall, to the extent of available appropriations, (i) make available sufficient resources for employment training and placement in order to achieve economic self-sufficiency among refugees as quickly as possible, (ii) provide refugees with the opportunity to acquire sufficient English language training to enable them to become effectively resettled as quickly as possible, (iii) insure that cash assistance is made available to refugees in such a manner as not to discourage their economic self-sufficiency, in accordance with subsection (e)(2), and (iv) insure that women have the same opportunities as men to participate in training and instruction.

(B) It is the intent of Congress that in providing refugee assistance under this section—

(i) employable refugees should be placed on jobs as soon as possible after their arrival in the United States;

(ii) social service funds should be focused on employment-related services, English-as-a-second-language training (in non-work hours where possible), and case-management services; and

(iii) local voluntary agency activities should be conducted in close cooperation and advance consultation with State and local governments.

(2)(A) The Director and the Federal agency administering subsection (b)(1) shall consult regularly (not less often than quarterly) with State and local governments and private nonprofit voluntary agencies concerning the sponsorship process and the intended distribution of refugees among the States and localities before their placement in those States and localities.

(B) The Director shall develop and implement, in consultation with representatives of voluntary agencies and State and local governments, policies and strategies for the placement and resettlement of refugees within the United States.

(C) Such policies and strategies, to the extent practicable and except under such unusual circumstances as the Director may recognize, shall—

(i) insure that a refugee is not initially placed or resettled in an area highly impacted (as determined under regulations prescribed by the Director after consultation with such agencies and governments) by the presence of refugees or comparable populations unless the refugee has a spouse, parent, sibling, son, or daughter residing in that area,

(ii) provide for a mechanism whereby representatives of local affiliates of voluntary agencies regularly (not less often than quarterly) meet with representatives of State and local governments to plan and coordinate in advance of their arrival the appropriate placement of refugees among the various States and localities, and

(iii) take into account—

(I) the proportion of refugees and comparable entrants in the population in the area,

(II) the availability of employment opportunities, affordable housing, and public and private resources (including educational, health care, and mental health services) for refugees in the area,

(III) the likelihood of refugees placed in the area becoming self-sufficient and free from long-term dependence on public assistance, and

(IV) the secondary migration of refugees to and from the area that is likely to occur.

(D) With respect to the location of placement of refugees within a State, the Federal agency administering subsection (b)(1) shall, consistent with such policies and strategies and to the maximum extent possible, take into account recommendations of the State.

(3) In the provision of domestic assistance under this section, the Director shall make a periodic assessment, based on refugee population and other relevant factors, of the relative needs of refugees for assistance and services under this chapter and the resources available to meet such needs. The Director shall compile and maintain data on secondary migration of refugees within the United States and, by State of residence and nationality, on the proportion of refugees receiving cash or medical assistance described in subsection (e). In allocating resources, the Director shall avoid duplication of services and provide for maximum coordination between agencies providing related services.

(4)(A) No grant or contract may be awarded under this section unless an appropriate proposal and application (including a description of the agency's ability to perform the services specified in the proposal) are submitted to, and approved by, the appropriate administering official. Grants and contracts under this section shall be made to those agencies which the appropriate administering official determines can best perform the services. Payments may be made for activities authorized under this chapter in advance or by way of reimbursement. In carrying out this section, the Director, the Secretary of State, and such other appropriate administering official are authorized—

- (i) to make loans, and
- (ii) to accept and use money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for the purpose of carrying out this section.

(B) No funds may be made available under this chapter (other than under subsection (b)(1)) to States or political subdivisions in the form of block grants, per capita grants, or similar consolidated grants or contracts. Such funds shall be made available under separate grants or contracts—

- (i) for medical screening and initial medical treatment under subsection (b)(5),
- (ii) for services for refugees under subsection (c)(1),
- (iii) for targeted assistance project grants under subsection (c)(2), and
- (iv) for assistance for refugee children under subsection (d)(2).

(C) The Director may not delegate to a State or political subdivision his authority to review or approve grants or contracts

under this chapter or the terms under which such grants or contracts are made.

(5) Assistance and services funded under this section shall be provided to refugees without regard to race, religion, nationality, sex, or political opinion.

(6) As a condition for receiving assistance under this section, a State must—

(A) submit to the Director a plan which provides—

(i) a description of how the State intends to encourage effective refugee resettlement and to promote economic self-sufficiency as quickly as possible,

(ii) a description of how the State will insure that language training and employment services are made available to refugees receiving cash assistance,

(iii) for the designation of an individual, employed by the State, who will be responsible for insuring coordination of public and private resources in refugee resettlement,

(iv) for the care and supervision of and legal responsibility for unaccompanied refugee children in the State, and

(v) for the identification of refugees who at the time of resettlement in the State are determined to have medical conditions requiring, or medical histories indicating a need for, treatment or observation and such monitoring of such treatment or observation as may be necessary;

(B) meet standards, goals, and priorities, developed by the Director, which assure the effective resettlement of refugees and which promote their economic self-sufficiency as quickly as possible and the efficient provision of services; and

(C) submit to the Director, within a reasonable period of time after the end of each fiscal year, a report on the uses of funds provided under this chapter which the State is responsible for administering.

(7) The Secretary, together with the Secretary of State with respect to assistance provided by the Secretary of State under subsection (b), shall develop a system of monitoring the assistance provided under this section. This system shall include—

(A) evaluations of the effectiveness of the programs funded under this section and the performance of States, grantees, and contractors;

(B) financial auditing and other appropriate monitoring to detect any fraud, abuse, or mismanagement in the operation of such programs; and

(C) data collection on the services provided and the results achieved.

(8) The Attorney General shall provide the Director with information supplied by refugees in conjunction with their applications to the Attorney General for adjustment of status, and the Director shall compile, summarize, and evaluate such information.

(9) The Secretary, the Secretary of Education, the Attorney General, and the Secretary of State may issue such regulations as each deems appropriate to carry out this chapter.

(10) For purposes of this chapter, the term “refugee” includes any alien described in section 207(c)(2).

(b) PROGRAM OF INITIAL RESETTLEMENT. —(1)(A) For—

(i) fiscal years 1980 and 1981, the Secretary of State is authorized, and

(ii) fiscal year 1982 and succeeding fiscal years, the Director (except as provided in subparagraph (B)) is authorized, to make grants to, and contracts with, public or private nonprofit agencies for initial resettlement (including initial reception and placement with sponsors) of refugees in the United States. Grants to, or contracts with, private nonprofit voluntary agencies under this paragraph shall be made consistent with the objectives of this chapter, taking into account the different resettlement approaches and practices of such agencies. Resettlement assistance under this paragraph shall be provided in coordination with the Director's provision of other assistance under this chapter. Funds provided to agencies under such grants and contracts may only be obligated or expended during the fiscal year in which they are provided (or the subsequent fiscal year or such subsequent fiscal period as the Federal contracting agency may approve) to carry out the purposes of this subsection.

(B) If the President determines that the Director should not administer the program under this paragraph, the authority of the Director under the first sentence of subparagraph (A) shall be exercised by such officer as the President shall from time to time specify.²⁷⁵

(2) The Director is authorized to develop programs for such orientation, instruction in English, and job training for refugees, and such other education and training of refugees, as facilitates their resettlement in the United States. The Director is authorized to implement such programs, in accordance with the provisions of this section, with respect to refugees in the United States. The Secretary of State is authorized to implement such programs with respect to refugees awaiting entry into the United States.

(3) The Secretary is authorized,^{275a} to make arrangements (including cooperative arrangements with other Federal agencies) for the temporary care of refugees in the United States in emergency circumstances, including the establishment of processing centers, if necessary, without regard to such provisions of law (other than the Renegotiation Act of 1951 and section 414(b) of this chapter) regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the Secretary may specify.

(4) The Secretary,^{275a} shall—

(A) assure that an adequate number of trained staff are available at the location at which the refugees enter the United States to assure that all necessary medical records are available and in proper order;

²⁷⁵ The President has specified the Secretary of State. See letter of Jan. 13, 1981, from Pres. Carter to the Speaker of the House and President of the Senate, 17 Weekly Compil. of Pres. Docs., p. 2880.

^{275a} Commas should have been stricken by amendments made by § 162(n)(2)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (P.L. 103-236, 108 Stat. 409, Apr. 30, 1994).

(B) provide for the identification of refugees who have been determined to have medical conditions affecting the public health and requiring treatment;

(C) assure that State or local health officials at the resettlement destination within the United States of each refugee are promptly notified of the refugee's arrival and provided with all applicable medical records; and

(D) provide for such monitoring of refugees identified under subparagraph (B) as will insure that they receive appropriate and timely treatment.

The Secretary shall develop and implement methods for monitoring and assessing the quality of medical screening and related health services provided to refugees awaiting resettlement in the United States.

(5) The Director is authorized to make grants to, and enter into contracts with, State and local health agencies for payments to meet their costs of providing medical screening and initial medical treatment to refugees.

(6) The Comptroller General shall directly conduct an annual financial audit of funds expended under each grant or contract made under paragraph (1) for fiscal year 1986 and for fiscal year 1987.

(7) Each grant or contract with an agency under paragraph (1) shall require the agency to do the following:

(A) To provide quarterly performance and financial status reports to the Federal agency administering paragraph (1).

(B)(i) To provide, directly or through its local affiliate, notice to the appropriate county or other local welfare office at the time that the agency becomes aware that a refugee is offered employment and to provide notice to the refugee that such notice has been provided, and

(ii) upon request of such a welfare office to which a refugee has applied for cash assistance, to furnish that office with documentation respecting any cash or other resources provided directly by the agency to the refugee under this subsection.

(C) To assure that refugees, known to the agency as having been identified pursuant to paragraph (4)(B) as having medical conditions affecting the public health and requiring treatment, report to the appropriate county or other health agency upon their resettlement in an area.

(D) To fulfill its responsibility to provide for the basic needs (including food, clothing, shelter, and transportation for job interviews and training) of each refugee resettled and to develop and implement a resettlement plan including the early employment of each refugee resettled and to monitor the implementation of such plan.

(E) To transmit to the Federal agency administering paragraph (1) an annual report describing the following:

(i) The number of refugees placed (by county of placement) and the expenditures made in the year under the grant or contract, including the proportion of such expenditures used for administrative purposes and for provision of services.

(ii) The proportion of refugees placed by the agency in the previous year who are receiving cash or medical assistance described in subsection (e).

(iii) The efforts made by the agency to monitor placement of the refugees and the activities of local affiliates of the agency.

(iv) The extent to which the agency has coordinated its activities with local social service providers in a manner which avoids duplication of activities and has provided notices to local welfare offices and the reporting of medical conditions of certain aliens to local health departments in accordance with subparagraphs (B)(i) and (C).

(v) Such other information as the agency administering paragraph (1) deems to be appropriate in monitoring the effectiveness of agencies in carrying out their functions under such grants and contracts.

The agency administering paragraph (1) shall promptly forward a copy of each annual report transmitted under subparagraph (E) to the Committees on the Judiciary of the House of Representatives and of the Senate,

(8) The Federal agency administering paragraph (1) shall establish criteria for the performance of agencies under grants and contracts under that paragraph, and shall include criteria relating to an agency's—

(A) efforts to reduce welfare dependency among refugees resettled by that agency,

(B) collection of travel loans made to refugees resettled by that agency for travel to the United States,

(C) arranging for effective local sponsorship and other nonpublic assistance for refugees resettled by that agency,

(D) cooperation with refugee mutual assistance associations, local social service providers, health agencies, and welfare offices,

(E) compliance with the guidelines established by the Director for the placement and resettlement of refugees within the United States, and

(F) compliance with other requirements contained in the grant or contract, including the reporting and other requirements under subsection (b)(7).

The Federal administering agency shall use the criteria in the process of awarding or renewing grants and contracts under paragraph (1).

(c) PROJECT GRANTS AND CONTRACTS FOR SERVICES FOR REFUGEES.—(1)(A) The Director is authorized to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed—

(i) to assist refugees in obtaining the skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services;

(ii) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and

(iii) to provide where specific needs have been shown and recognized by the Director, health (including mental health) services, social services, educational and other services.

(B) The funds available for a fiscal year for grants and contracts under subparagraph (A) shall be allocated among the States based on the total number of refugees (including children and adults) who arrived in the United States not more than 36 months before the beginning of such fiscal year and who are actually residing in each State (taking into account secondary migration) as of the beginning of the fiscal year.

(C) Any limitation which the Director establishes on the proportion of funds allocated to a State under this paragraph that the State may use for services other than those described in subsection (a)(1)(B)(ii) shall not apply if the Director receives a plan (established by or in consultation with local governments) and determines that the plan provides for the maximum appropriate provision of employment-related services for, and the maximum placement of, employable refugees consistent with performance standards established under section 106 of the Job Training Partnership Act.

(2)(A) The Director is authorized to make grants to States for assistance to counties and similar areas in the States where, because of factors such as unusually large refugee populations (including secondary migration), high refugee concentrations, and high use of public assistance by refugees, there exists and can be demonstrated a specific need for supplementation of available resources for services to refugees.

(B) Grants shall be made available under this paragraph—

(i) primarily for the purpose of facilitating refugee employment and achievement of self-sufficiency,

(ii) in a manner that does not supplant other refugee program funds and that assures that not less than 95 percent of the amount of the grant award is made available to the county or other local entity.

(d) ASSISTANCE FOR REFUGEE CHILDREN.—(1) The Secretary of Education is authorized to make grants, and enter into contracts, for payments for projects to provide special educational services (including English language training) to refugee children in elementary and secondary schools where a demonstrated need has been shown.

(2)(A) The Director is authorized to provide assistance, reimbursement to States, and grants to and contracts with, public and private nonprofit agencies, for the provision of child welfare services, including foster care maintenance payments and services and health care, furnished to any refugee child (except as provided in subparagraph (B)) during the thirty-six month period beginning with the first month in which such refugee child is in the United States.

(B)(i) In the case of a refugee child who is unaccompanied by a parent or other close adult relative (as defined by the Director), the services described in subparagraph (A) may be furnished until the month after the child attains eighteen years of age (or such higher age as the State's child welfare services plan under part B

of title IV of the Social Security Act prescribes for the availability of such services to any other child in that State).

(ii) The Director shall attempt to arrange for the placement under the laws of the States of such unaccompanied refugee children, who have been accepted for admission to the United States, before (or as soon as possible after) their arrival in the United States. During any interim period while such a child is in the United States or in transit to the United States but before the child is so placed, the Director shall assume legal responsibility (including financial responsibility) for the child, if necessary, and is authorized to make necessary decisions to provide for the child's immediate care.

(iii) In carrying out the Director's responsibilities under clause (ii), the Director is authorized to enter into contracts with appropriate public or private nonprofit agencies under such conditions as the Director determines to be appropriate.

(iv) The Director shall prepare and maintain a list of (I) all such unaccompanied children who have entered the United States after April 1, 1975, (II) the names and last known residences of their parents (if living) at the time of arrival, and (III) the children's location, status, and progress.

(e)²⁷⁶ CASH ASSISTANCE AND MEDICAL ASSISTANCE TO REFUGEES.—(1) The Director is authorized to provide assistance, reimbursement to States, and grants to, and contracts with, public or private nonprofit agencies for 100 per centum of the cash assistance and medical assistance provided to any refugee during the thirty-six month period beginning with the first month in which such refugee has entered the United States and for the identifiable and reasonable administrative costs of providing this assistance.

(2)(A) Cash assistance provided under this subsection to an employable refugee is conditioned, except for good cause shown—

(i) on the refugee's registration with an appropriate agency providing employment services described in subsection (c)(1)(A)(i), or, if there is no such agency available, with an appropriate State or local employment service;

(ii) on the refugee's participation in any available and appropriate social service or targeted assistance program (funded under subsection (c)) providing job or language training in the area in which the refugee resides; and

²⁷⁶ Section 313(c) of the Refugee Act of 1980 (Pub. L. 96-212, Mar. 17, 1980, 94 Stat. 117) provides as follows:

(c) Notwithstanding section 412(e)(1) of the Immigration and Nationality Act and in lieu of any assistance which may otherwise be provided under such section with respect to Cuban refugees who entered the United States and were receiving assistance under section 2(b) of the Migration and Refugee Assistance Act of 1962 before October 1, 1978, the Director of the Office of Refugee Resettlement is authorized—

(1) to provide reimbursement—

(A) in fiscal year 1980, for 75 percent,
(B) in fiscal year 1981, for 60 percent,
(C) in fiscal year 1982, for 45 percent, and
(D) in fiscal year 1983, for 25 percent,

of the non-Federal costs of providing cash and medical assistance (other than assistance described in paragraph (2) to such refugees, and

(2) to provide reimbursement in any fiscal year for 100 percent of the non-Federal costs associated with such Cuban refugees with respect to whom supplemental security income payments were being paid as of September 30, 1978, under title XVI of the Social Security Act.

(iii) on the refugee's acceptance of appropriate offers of employment.²⁷⁷

(B) Cash assistance shall not be made available to refugees who are full-time students in institutions of higher education (as defined by the Director after consultation with the Secretary of Education).

(C)²⁷⁸ In the case of a refugee who—

(i) refuses an offer of employment which has been determined to be appropriate either by the agency responsible for the initial resettlement of the refugee under subsection (b) or by the appropriate State or local employment service,

(ii) refuses to go to a job interview which has been arranged through such agency or service, or

(iii) refuses to participate in a social service or targeted assistance program referred to in subparagraph (A)(ii) which such agency or service determines to be available and appropriate,

cash assistance to the refugee shall be terminated (after opportunity for an administrative hearing) for a period of three months (for the first such refusal) or for a period of six months (for any subsequent refusal).

(3) The Director shall develop plans to provide English training and other appropriate services and training to refugees receiving cash assistance.

(4) If a refugee is eligible for aid or assistance under a State plan approved under part A of title IV or under title XIX of the Social Security Act, or for supplemental security income benefits (including State supplementary payments) under the program established under title XVI of that Act, funds authorized under this subsection shall only be used for the non-Federal share of such aid or assistance, or for such supplementary payments, with respect to cash and medical assistance provided with respect to such refugee under this paragraph.

(5) The Director is authorized to allow for the provision of medical assistance under paragraph (1) to any refugee, during the one-year period after entry, who does not qualify for assistance under a State plan approved under title XIX of the Social Security Act on account of any resources or income requirement of such plan, but only if the Director determines that—

(A) this will (i) encourage economic self-sufficiency, or (ii) avoid a significant burden on State and local governments; and

(B) the refugee meets such alternative financial resources and income requirements as the Director shall establish.

(6) As a condition for receiving assistance, reimbursement, or a contract under this subsection and notwithstanding any other provision of law, a State or agency must provide assurances that

²⁷⁷ For aliens who enter the United States as refugees before April 1, 1987, the following sentence (which was stricken by § 9(a)(1) of the Refugee Assistance Extension Act of 1986 (Pub. L. 99-605, Nov. 6, 1986, 100 Stat. 3454)) applies:

Such cash assistance provided to such a refugee shall be terminated (after opportunity for an administrative hearing) with the month in which the refugee refuses such an appropriate offer of employment or refuses to participate in such an available and appropriate social service program.

²⁷⁸ This subparagraph applies to aliens who enter the United States as refugees on or after April 1, 1987, under § 9(c) of the Refugee Assistance Extension Act of 1986 (Pub. L. 99-605, 100 Stat. 3454).

whenever a refugee applies for cash or medical assistance for which assistance or reimbursement is provided under this subsection, the State or agency must notify promptly the agency (or local affiliate) which provided for the initial resettlement of the refugee under subsection (b) of the fact that the refugee has so applied.

(7)(A) The Secretary shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers. The Secretary may permit alternative projects to cover specific groups of refugees who have been in the United States 36 months or longer if the Secretary determines that refugees in the group have been significantly and disproportionately dependent on welfare and need the services provided under the project in order to become self-sufficient and that their coverage under the projects would be cost-effective.

(B) Refugees covered under such alternative projects shall be precluded from receiving cash or medical assistance under any other paragraph of this subsection or under title XIX or part A of title IV of the Social Security Act.

(C) The Secretary shall report to Congress not later than October 31, 1985, on the results of these projects and on any recommendations respecting changes in the refugee assistance program under this section to take into account such results.

(D) To the extent that the use of such funds is consistent with the purposes of such provisions, funds appropriated under section 414(a) of this Act, part A of title IV of the Social Security Act, or title XIX of such Act, may be used for the purpose of implementing and evaluating alternative projects under this paragraph.

(8) In its provision of assistance to refugees, a State or political subdivision shall consider the recommendations of, and assistance provided by, agencies with grants or contracts under subsection (b)(1).

(f) ASSISTANCE TO STATES AND COUNTIES FOR INCARCERATION OF CERTAIN CUBAN NATIONALS.—(1) The Attorney General shall pay compensation to States and to counties for costs incurred by the States and counties to confine in prisons, during the fiscal year for which such payment is made, nationals of Cuba who—

(A) were paroled into the United States in 1980 by the Attorney General,

(B) after such parole committed any violation of State or county law for which a term of imprisonment was imposed, and

(C) at the time of such parole and such violation were not aliens lawfully admitted to the United States—

(i) for permanent residence, or

(ii) under the terms of an immigrant or a non-immigrant visa issued, under this Act.

(2) For a State or county to be eligible to receive compensation under this subsection, the chief executive officer of the State or county shall submit to the Attorney General, in accordance

with rules to be issued by the Attorney General, an application containing—

(A) the number and names of the Cuban nationals with respect to whom the State or county is entitled to such compensation, and

(B) such other information as the Attorney General may require.

(3) For a fiscal year the Attorney General shall pay the costs described in paragraph (1) to each State and county determined by the Attorney General to be eligible under paragraph (2); except that if the amounts appropriated for the fiscal year to carry out this subsection are insufficient to cover all such payments, each of such payments shall be ratably reduced so that the total of such payments equals the amounts so appropriated.

(4) The authority of the Attorney General to pay compensation under this subsection shall be effective for any fiscal year only to the extent and in such amounts as may be provided in advance in appropriation Acts.

(5) It shall be the policy of the United States Government that the President, in consultation with the Attorney General and all other appropriate Federal officials and all appropriate State and county officials referred to in paragraph (2), shall place top priority on seeking the expeditious removal from this country and the return to Cuba of Cuban nationals described in paragraph (1) by any reasonable and responsible means, and to this end the Attorney General may use the funds authorized to carry out this subsection to conduct such policy.

CONGRESSIONAL REPORTS

SEC. 413. [8 U.S.C. 1523] (a) The Secretary shall submit a report on activities under this chapter to the Committees on the Judiciary of the House of Representatives and of the Senate not later than the January 31 following the end of each fiscal year, beginning with fiscal year 1980.

(b) Each such report shall contain—

(1) an updated profile of the employment and labor force statistics for refugees who have entered the United States within the five-fiscal-year period immediately preceding the fiscal year within which the report is to be made and for refugees who entered earlier and who have shown themselves to be significantly and disproportionately dependent on welfare as well as a description of the extent to which refugees received the forms of assistance or services under this chapter during that period;

(2) a description of the geographic location of refugees;

(3) a summary of the results of the monitoring and evaluation conducted under section 412(a)(7) during the period for which the report is submitted;

(4) a description of (A) the activities, expenditures, and policies of the Office under this chapter and of the activities of States, voluntary agencies, and sponsors, and (B) the Director's plans for improvement of refugee resettlement;

(5) evaluations of the extent to which (A) the services provided under this chapter are assisting refugees in achieving economic self-sufficiency, achieving ability in English, and achieving employment commensurate with their skills and abilities, and (B) any fraud, abuse, or mismanagement has been reported in the provisions of services or assistance;

(6) a description of any assistance provided by the Director pursuant to section 412(e)(5);

(7) a summary of the location and status of unaccompanied refugee children admitted to the United States; and

(8) a summary of the information compiled and evaluation made under section 412(a)(8).

AUTHORIZATION OF APPROPRIATIONS

SEC. 414. [8 U.S.C. 1524] (a)²⁸⁰ There are authorized to be appropriated for fiscal year 1995, fiscal year 1996, and fiscal year 1997 such sums as may be necessary to carry out this chapter.

(b) The authority to enter into contracts under this chapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

[The following provisions, relating to the organization of the Immigration and Naturalization Service and printed in 8 point type, are included at this point as chapter 13 of title 8, United States Code, but are *not* part of the Immigration and Nationality Act:]

§ 1551. Immigration and Naturalization Service

There is created and established in the Department of Justice an Immigration and Naturalization Service.

(Feb. 14, 1903, ch. 552, § 4, 32 Stat. 826; as amended.)

§ 1552. Commissioner of Immigration and Naturalization; office

The office of the Commissioner of Immigration and Naturalization is created and established, and the President, by and with the advice and consent of the Senate, is authorized and directed to appoint such officer. The Attorney General shall provide him with a suitable, furnished office in the city of Washington, and with such books of record and facilities for the discharge of the duties of his office as may be necessary.

(Mar. 3, 1891, ch. 551, § 7, 26 Stat. 1085; as amended.)

[NOTE.—Section 103(b) of INA describes functions of Commissioner.]

§ 1553. Assistant Commissioners and one District Director; compensation and salary grade

The compensation of the five assistant commissioners and one district director shall be at the rate of grade GS-16.

(June 20, 1956, ch. 414, title II, § 201, 70 Stat. 307. Under § 101(c)(1)(A)(iii) of the Treasury, Postal Service and General Government Appropriations Act, 1991 (P.L. 101-509, 105 Stat. 1442, Nov. 5, 1990), the reference in this section to GS-16 of the General Schedule is considered a reference to a rate of pay for a position classified above GS-15 pursuant to section 5108 of title 5, United States Code, as amended by section 102(b)(2) of that Act.)

§ 1554. Special Immigrant Inspectors at Washington

Special immigrant inspectors, not to exceed three, may be detailed for duty in the service at Washington.

(Mar. 2, 1895, ch. 177, § 1, 28 Stat. 780; Ex. Ord. No. 6166, § 14, June 10, 1933.)

²⁸⁰ Subsection (a) was amended to authorize appropriations for fiscal years 1993 and 1994 by P.L. 103-37 (June 8, 1993; 107 Stat. 107) and was further amended to substitute an authorization of appropriations for fiscal years 1995 through 1997 by § 208 of P.L. 103-416 (108 Stat. 4312, Oct. 25, 1994).

§ 1555. Immigration Service expenses

Appropriations now or hereafter provided for the Immigration and Naturalization Service shall be available for payment of (a) hire of privately owned horses for use on official business, under contract with officers or employees of the Service; (b) pay of interpreters and translators who are not citizens of the United States; (c) distribution of citizenship textbooks to aliens without cost to such aliens; (d) payment of allowances (at such rate as may be specified from time to time in the appropriation Act involved) to aliens, while held in custody under the immigration laws, for work performed; and (e) when so specified in the appropriation concerned, expenses of unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, who shall make a certificate of the amount of any such expenditure as he may think it advisable not to specify, and every such certificate shall be deemed a sufficient voucher for the sum therein expressed to have been expended.

(July 28, 1950, ch. 503, § 6, 64 Stat. 380.)

§ 1557. Prevention of transportation in foreign commerce of alien women and girls under international agreement; Commissioner designated as authority to receive and preserve information

For the purpose of regulating and preventing the transportation in foreign commerce of alien women and girls for purposes of prostitution and debauchery, and in pursuance of and for the purpose of carrying out the terms of the agreement or project of arrangement for the suppression of the whiteslave traffic, adopted July 25, 1902, for submission to their respective governments by the delegates of various powers represented at the Paris Conference and confirmed by a formal agreement signed at Paris on May 18, 1904, and adhered to by the United States on June 6, 1908, as shown by the proclamation of the President of the United States dated June 15, 1908, the Commissioner of Immigration and Naturalization is designated as the authority of the United States to receive and centralize information concerning the procurement of alien women and girls with a view to their debauchery, and to exercise supervision over such alien women and girls, receive their declarations, establish their identity, and ascertain from them who induced them to leave their native countries, respectively; and it shall be the duty of said Commissioner of Immigration and Naturalization to receive and keep on file in his office the statements and declarations which may be made by such alien women and girls, and those which are hereinafter required pertaining to such alien women and girls engaged in prostitution or debauchery in this country, and to furnish receipts for such statements and declarations provided for in this Act to the persons, respectively, making and filing them.

(June 25, 1910, ch. 395, § 6, 36 Stat. 826; Ex. Ord. No. 6166, § 14, June 10, 1933.)

APPENDIXES

I. SELECTED PROVISIONS OF TITLE 18, U.S. CODE

(Showing law as of April 1, 1995)

* * * * *

CHAPTER 13—CIVIL RIGHTS

Sec.

* * * * *

242. Deprivation of rights under color of law.

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§ 242. Deprivation of rights under color of law

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

* * * * *

CHAPTER 43—FALSE PERSONATION

Sec.

911. Citizen of the United States.

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§ 911. Citizen of the United States

Whoever falsely and willfully represents himself to be a citizen of the United States shall be fined under this title or imprisoned not more than three years, or both.

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CHAPTER 44—FIREARMS

Sec.

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922. Unlawful acts.

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§ 922. Unlawful acts

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(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—

(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice;

(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) has been adjudicated as a mental defective or has been committed to any mental institution;

(5) who, being an alien, is illegally or unlawfully in the United States;

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship; or

(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—

(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

(B)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 925 of this chapter is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925 of this chapter.

* * * * *

(g) It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien, is illegally or unlawfully in the United States;

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship; or

(8) who is subject to a court order that—

(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury,

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

* * * * *

CHAPTER 47—FRAUD AND FALSE STATEMENTS

Sec.

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1015. Naturalization, citizenship or alien registry.

* * * * *

§ 1015. Naturalization, citizenship or alien registry

(a) Whoever knowingly makes any false statement under oath, in any case, proceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization, citizenship, or registry of aliens; or

(b) Whoever knowingly, with intent to avoid any duty or liability imposed or required by law, denies that he has been naturalized or admitted to be a citizen, after having been so naturalized or admitted; or

(c) Whoever uses or attempts to use any certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship or other documentary evidence of naturalization or of citizenship, or any duplicate or copy thereof, knowing the same to have been procured by fraud or false evidence or without required appearance or hearing of the applicant in court or otherwise unlawfully obtained; or

(d) Whoever knowingly makes any false certificate, acknowledgment or statement concerning the appearance before him or the taking of an oath or affirmation or the signature, attestation or execution by any person with respect to any application, declaration, petition, affidavit, deposition, certificate of naturalization, certificate of citizenship or other paper or writing required or authorized by the laws relating to immigration, naturalization, citizenship, or registry of aliens—

Shall be fined under this title or imprisoned not more than five years, or both.

* * * * *

CHAPTER 69—NATIONALITY AND CITIZENSHIP

Sec.

1421. Accounts of court officers.

1422. Fees in naturalization proceedings.

1423. Misuse of evidence of citizenship or naturalization.

1424. Personation or misuse of papers in naturalization proceedings.

1425. Procurement of citizenship or naturalization unlawfully.

1426. Reproduction of naturalization or citizenship papers.

1427. Sale of naturalization or citizenship papers.

1428. Surrender of canceled naturalization certificate.

1429. Penalties for neglect or refusal to answer subpoena.

§ 1421. Accounts of court officers

Whoever, being a clerk or assistant clerk of a court, or other person charged by law with a duty to render true accounts of moneys received in any proceeding relating to citizenship, naturalization, or registration of aliens or to pay over any balance of such moneys due to the United States, willfully neglects to do so within thirty days after said payment shall become due and demand therefor has been made, shall be fined under this title or imprisoned not more than five years, or both.

§ 1422. Fees in naturalization proceedings

Whoever knowingly demands, charges, solicits, collects, or receives, or agrees to charge, solicit, collect, or receive any other or additional fees or moneys in proceedings relating to naturalization or citizenship or the registry of aliens beyond the fees and moneys authorized by law, shall be fined under this title or imprisoned not more than five years, or both.

§ 1423. Misuse of evidence of citizenship or naturalization

Whoever knowingly uses for any purpose any order, certificate, certificate of naturalization, certificate of citizenship, judgment, decree, or exemplification, unlawfully issued or made, or copies or duplicates thereof, showing any person to be naturalized or admitted to be a citizen, shall be fined under this title or imprisoned not more than five years, or both.

§ 1424. Personation or misuse of papers in naturalization proceedings

Whoever, whether as applicant, declarant, petitioner, witness or otherwise, in any naturalization or citizenship proceeding, knowingly personates another or appears falsely in the name of a deceased person or in an assumed or fictitious name; or

Whoever knowingly and unlawfully uses or attempts to use, as showing naturalization or citizenship of any person, any order, certificate, certificate of naturalization, certificate of citizenship, judgment, decree, or exemplification, or copies or duplicates thereof, issued to another person, or in a fictitious name or in the name of a deceased person—

Shall be fined under this title or imprisoned not more than five years, or both.

§ 1425. Procurement of citizenship or naturalization unlawfully

(a) Whoever knowingly procures or attempts to procure, contrary to law, the naturalization of any person, or documentary or other evidence of naturalization or of citizenship; or

(b) Whoever, whether for himself or another person not entitled thereto, knowingly issues, procures or obtains or applies for or otherwise attempts to procure or obtain naturalization, or citizenship, or a declaration of intention to become a citizen, or a certificate of arrival or any certificate or evidence of naturalization or citizenship, documentary or otherwise, or duplicates or copies of any of the foregoing—

Shall be fined under this title or imprisoned not more than five years, or both.

§ 1426. Reproduction of naturalization or citizenship papers

(a) Whoever falsely makes, forges, alters or counterfeits any oath, notice, affidavit, certificate of arrival, declaration of intention, certificate or documentary evidence of naturalization or citizenship or any order, record, signature, paper or proceeding or any copy thereof, required or authorized by any law relating to naturalization or citizenship or registry of aliens; or

(b) Whoever utters, sells, disposes of or uses as true or genuine, any false, forged, altered, antedated or counterfeited oath, notice, affidavit, certificate of arrival, declaration of intention to become a citizen, certificate or documentary evidence of naturalization or citizenship, or any order, record, signature or other instrument, paper or proceeding required or authorized by any law relating to naturalization or citizenship or registry of aliens, or any copy thereof, knowing the same to be false, forged, altered, antedated or counterfeited; or

(c) Whoever, with intent unlawfully to use the same, possesses any false, forged, altered, antedated or counterfeited certificate of arrival, declaration of intention to become a citizen, certificate or documentary evidence of naturalization or citizenship purporting to have been issued under any law of the United States, or copy thereof, knowing the same to be false, forged, altered, antedated or counterfeited; or

(d) Whoever, without lawful authority, engraves or possesses, sells or brings into the United States any plate in the likeness or similitude of any plate designed, for the printing of a declaration of intention, or certificate or documentary evidence of naturalization or citizenship; or

(e) Whoever, without lawful authority, brings into the United States any document printed therefrom; or

(f) Whoever, without lawful authority, possesses any blank certificate of arrival, blank declaration of intention or blank certificate of naturalization or citizenship provided by the Immigration and Naturalization Service, with intent unlawfully to use the same; or

(g) Whoever, with intent unlawfully to use the same, possesses a distinctive paper adopted by the proper officer or agency of the United States for the printing or engraving of a declaration of intention to become a citizen, or certificate of naturalization or certificate of citizenship; or

(h) Whoever, without lawful authority, prints, photographs, makes or executes any print or impression in the likeness of a certificate of arrival, declaration of intention to become a citizen, or certificate of naturalization or citizenship, or any part thereof—

Shall be fined under this title or imprisoned not more than five years, or both.

§ 1427. Sale of naturalization or citizenship papers

Whoever unlawfully sells or disposes of a declaration of intention to become a citizen, certificate of naturalization, certificate of citizenship or copies or duplicates or other documentary evidence of naturalization or citizenship, shall be fined under this title or imprisoned not more than five years or both.

§ 1428. Surrender of canceled naturalization certificate

Whoever, having in his possession or control a certificate of naturalization or citizenship or a copy thereof which has been canceled as provided by law, fails to surrender the same after at least sixty days' notice by the appropriate court or the Commissioner or Deputy Commissioner of Immigration, shall be fined under this title or imprisoned not more than five years, or both.

§ 1429. Penalties for neglect or refusal to answer subpoena

Any person who has been subpoenaed under the provisions of subsection (d) of section 336 of the Immigration and Nationality Act to appear at the final hearing of an application* for naturalization, and who shall neglect or refuse to so appear and to testify, if in the power of such person to do so, shall be fined under this title or imprisoned not more than five years or both.

* * * * *

CHAPTER 75—PASSPORTS AND VISAS

Sec.

- 1541. Issuance without authority.
- 1569. False statement in application and use of passport.
- 1543. Forgery or false use of passport.
- 1544. Misuse of passport.
- 1545. Safe conduct violation.
- 1546. Fraud and misuse of visas, permits, and other documents.
- 1547. Alternative imprisonment maximum for certain offenses.

§ 1541. Issuance without authority

Whoever, acting or claiming to act in any office or capacity under the United States, or a State or possession, without lawful authority grants, issues, or verifies any passport or other instrument in the nature of a passport to or for any person whomsoever; or

Whoever, being a consular officer authorized to grant, issue, or verify passports, knowingly and willfully grants, issues, or verifies any such passport to or for any person not owing allegiance, to the United States, whether a citizen or not—

Shall be fined under this title, imprisoned not more than 10 years, or both.

§ 1542. False statement in application and use of passport

Whoever willfully and knowingly makes any false statement in an application for passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws; or

Whoever willfully and knowingly uses or attempts to use, or furnishes to another for use any passport the issue of which was secured in any way by reason of any false statement—

Shall be fined under this title, imprisoned not more than 10 years, or both.

§ 1543. Forgery or false use of passport

Whoever falsely makes, forges, counterfeits, mutilates, or alters any passport or instrument purporting to be a passport, with intent that the same may be used; or

Whoever willfully and knowingly uses, or attempts to use, or furnishes to another for use any such false, forged, counterfeited, mutilated, or altered passport or instrument purporting to be a passport, or any passport validly issued which has become void by the occurrence of any condition therein prescribed invalidating the same—

Shall be fined under this title, imprisoned not more than 10 years, or both.

§ 1544. Misuse of passport

Whoever willfully and knowingly uses, or attempts to use, any passport issued or designed for the use of another; or

Whoever willfully and knowingly uses or attempts to use any passport in violation of the conditions or restrictions therein contained, or of the rules prescribed pursuant to the laws regulating the issuance of passports; or

Whoever willfully and knowingly furnishes, disposes of, or delivers a passport to any person, for use by another than the person for whose use it was originally issued and designed—

Shall be fined under this title, imprisoned not more than 10 years, or both.

§ 1545. Safe conduct violation

Whoever violates any safe conduct or passport duly obtained and issued under authority of the United States shall be fined under this title, imprisoned not more than 10 years, or both.

* § 407(c) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5041) substituted a reference to an application for a reference to a petition.

§ 1546. Fraud and misuse of visas, permits, and other documents

(a) Whoever knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or

Whoever, except under direction of the Attorney General or the Commissioner of the Immigration and Naturalization Service, or other proper officer, knowingly possesses any blank permit, or engraves, sells, brings into the United States, or has in his control or possession any plate in the likeness of a plate designed for the printing of permits, or makes any print, photograph, or impression in the likeness of any immigrant or nonimmigrant visa, permit or other document required for entry into the United States, or has in his possession a distinctive paper which has been adopted by the Attorney General or the Commissioner of the Immigration and Naturalization Service for the printing of such visas, permits, or documents; or

Whoever, when applying for an immigrant or nonimmigrant visa, permit, or other document required for entry into the United States, or for admission to the United States personates another, or falsely appears in the name of a deceased individual, or evades or attempts to evade the immigration laws by appearing under an assumed or fictitious name without disclosing his true identity, or sells or otherwise disposes of, or offers to sell or otherwise dispose of, or utters, such visa, permit, or other document, to any person not authorized by law to receive such document; or

Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement—

Shall be fined under this title or imprisoned not more than 10 years*, or both.

(b) Whoever uses—

(1) an identification document, knowing (or having reason to know) that the document was not issued lawfully for the use of the possessor,

(2) an identification document knowing (or having reason to know) that the document is false, or

(3) a false attestation,

for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act, shall be fined under this title, imprisoned not more than 5 years*, or both.

(c) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).

[NOTE.—A person convicted under this section is subject to deportation under section 241(a)(5) of the Immigration and Nationality Act. This section was amended by § 103 of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, approved Nov. 6, 1986, 100 Stat. 3380).]

§ 1547. Alternative imprisonment maximum for certain offenses

Notwithstanding any other provision of this title, the maximum term of imprisonment that may be imposed for an offense under this chapter (other than an offense under section 1545)—

(1) if committed to facilitate a drug trafficking crime (as defined in 929(a)) is 15 years; and

(2) if committed to facilitate an act of international terrorism (as defined in section 2331) is 20 years.

* * * * *

*Criminal penalties were increased from 5 and 2 years to 10 and 5 years under subsections (a) and (b) by § 130009(a) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 108 Stat. 2030, Sept. 13, 1994).]

CHAPTER 117—TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES

Sec.

* * * * *

2424. Filing factual statement about alien individual.

* * * * *

§ 2424. Filing factual statement about alien individual

(a) Whoever keeps, maintains, controls, supports, or harbors in any house or place for the purpose of prostitution, or for any other immoral purpose, any alien individual within three years after that individual has entered the United States from any country, party to the arrangement adopted July 25, 1902, for the suppression of the white-slave traffic, shall file with the Commissioner of Immigration and Naturalization a statement in writing setting forth the name of such alien individual, the place at which that individual is kept, and all facts as to the date of that individual's entry into the United States, the port through which that individual entered, that individual's age, nationality, and parentage, and concerning that individual's procurement to come to this country within the knowledge of such person; and

Whoever fails within thirty days after commencing to keep, maintain, control, support, or harbor in any house or place for the purpose of prostitution, or for any other immoral purpose, any alien individual within three years after that individual has entered the United States from any country, party to the said arrangement for the suppression of the white-slave traffic, to file such statement concerning such alien individual with the Commissioner of Immigration and Naturalization; or

Whoever knowingly and willfully states falsely or fails to disclose in such statement any fact within that person's knowledge or belief with reference to the age, nationality, or parentage of any such alien individual, or concerning that individual's procurement to come to this country—

Shall be fined under this title or imprisoned not more than two years, or both.

(b) In any prosecution brought under this section, if it appears that any such statement required is not on file in the office of the Commissioner of Immigration and Naturalization, the person whose duty it is to file such statement shall be presumed to have failed to file said statement, unless such person or persons shall prove otherwise. No person shall be excused from furnishing the statement, as required by this section, on the ground or for the reason that the statement so required by that person, or the information therein contained, might tend to criminate that person or subject that person to a penalty or forfeiture, but no information contained in the statement or any evidence which is directly or indirectly derived from such information may be used against any person making such statement in any criminal case, except a prosecution for perjury, giving a false statement or otherwise failing to comply with this section.

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CHAPTER 223—WITNESSES AND EVIDENCE

Sec.

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3508. Custody and return of foreign witnesses.

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§ 3508. Custody and return of foreign witnesses

(a) When the testimony of a person who is serving a sentence, is in pretrial detention, or is otherwise being held in custody, in a foreign country, is needed in a State or Federal criminal proceeding, the Attorney General shall, when he deems it appropriate in the exercise of his discretion, have the authority to request the temporary transfer of that person to the United States for the purposes of giving such testimony, to transport such person to the United States in custody, to maintain the custody of such person while he is in the United States, and to return such person to the foreign country.

(b) Where the transfer to the United States of a person in custody for the purposes of giving testimony is provided for by treaty or convention, by this section, or both, that person shall be returned to the foreign country from which he is trans-

ferred. In no event shall the return of such person require any request for extradition or extradition proceedings, or proceedings under the immigration laws.

(c) Where there is a treaty or convention between the United States and the foreign country in which the witness is being held in custody which provides for the transfer, custody and return of such witnesses, the terms and conditions of that treaty shall apply. Where there is no such treaty or convention, the Attorney General may exercise the authority described in paragraph (a) if both the foreign country and the witness give their consent.

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CHAPTER 227—SENTENCES

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SUBCHAPTER D—IMPRISONMENT

Sec.

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3583. Inclusion of a term of supervised release after imprisonment.

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§ 3583. Inclusion of a term of supervised release after imprisonment

(a) **IN GENERAL.**—The court, in imposing a sentence to a term of imprisonment for a felony or a misdemeanor, may include as a part of the sentence a requirement that the defendant be placed on a term of supervised release after imprisonment, except that the court shall include as a part of the sentence a requirement that the defendant be placed on a term of supervised release if such a term is required by statute or if the defendant has been convicted for the first time of a domestic violence crime as defined in section 3561(b).

(b) **AUTHORIZED TERMS OF SUPERVISED RELEASE.**—Except as otherwise provided, the authorized terms of supervised release are—

- (1) for a Class A or Class B felony, not more than five years;
- (2) for a Class C or Class D felony, not more than three years; and
- (3) for a Class E felony, or for a misdemeanor (other than a petty offense), not more than one year.

(c) **FACTORS TO BE CONSIDERED IN INCLUDING A TERM OF SUPERVISED RELEASE.**—The court, in determining whether to include a term of supervised release, and, if a term of supervised release is to be included, in determining the length of the term and the conditions of supervised release, shall consider the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), and (a)(6).

(d) **CONDITIONS OF SUPERVISED RELEASE.**—The court shall order, as an explicit condition of supervised release, that the defendant not commit another Federal, State, or local crime during the term of supervision and that the defendant not unlawfully possess a controlled substance. The court shall order as an explicit condition of supervised release for a defendant convicted for the first time of a domestic violence crime as defined in section 3561(b) that the defendant attend a public, private, or private nonprofit offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is readily available within a 50-mile radius of the legal residence of the defendant. The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the court as provided in section 3563(a)(4). The results of a drug test administered in accordance with the preceding subsection shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider whether the availability of appropriate substance abuse treatment programs, or an individual's current or past participation in such

programs, warrants an exception in accordance with United States Sentencing Commission guidelines from the rule of section 3583(g) when considering any action against a defendant who fails a drug test. The court may order, as a further condition of supervised release, to the extent that such condition—

(1) is reasonably related to the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), and (a)(2)(D);

(2) involves no greater deprivation of liberty than is reasonably necessary for the purposes set forth in section 3553(a)(2)(B), (a)(2)(C), and (a)(2)(D); and

(3) is consistent with any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a);

any condition set forth as a discretionary condition of probation in section 3563(b)(1) through (b)(10) and (b)(12) through (b)(20), and any other condition it considers to be appropriate. If an alien defendant is subject to deportation, the court may provide, as a condition of supervised release, that he be deported and remain outside the United States, and may order that he be delivered to a duly authorized immigration official for such deportation.

(e) MODIFICATION OF CONDITIONS OR REVOCATION.—The court may, after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), and (a)(6)—

(1) terminate a term of supervised release and discharge the defendant released at any time after the expiration of one year of supervised release, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation, if it is satisfied that such action is warranted by the conduct of the defendant released and the interest of justice;

(2) extend a term of supervised release if less than the maximum authorized term was previously imposed, and may modify, reduce, or enlarge the conditions of supervised release, at any time prior to the expiration or termination of the term of supervised release, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation and the provisions applicable to the initial setting of the terms and conditions of post-release supervision;

(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or

(4) order the defendant to remain at his place of residence during nonworking hours and, if the court so directs, to have compliance monitored by telephone or electronic signaling devices, except that an order under this paragraph may be imposed only as an alternative to incarceration.

(f) WRITTEN STATEMENT OF CONDITIONS.—The court shall direct that the probation officer provide the defendant with a written statement that sets forth all the conditions to which the term of supervised release is subject, and that is sufficiently clear and specific to serve as a guide for the defendant's conduct and for such supervision as is required.

(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR FOR REFUSAL TO COMPLY WITH DRUG TESTING.—If the defendant—

(1) possesses a controlled substance in violation of the condition set forth in subsection (d);

(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm; or

(3) refuses to comply with drug testing imposed as a condition of supervised release;

the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term

of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

(i) **DELAYED REVOCATION.**—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.

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CHAPTER 306—TRANSFER TO OR FROM FOREIGN COUNTRIES

Sec.

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4113. Status of alien offender transferred to a foreign country.

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§ 4113. Status of alien offender transferred to a foreign country

(a) An alien who is deportable from the United States but who has been granted voluntary departure pursuant to section 1252(b) or section 1254(e) of title 8, United States Code, and who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have voluntarily departed from this country.

(b) An alien who is the subject of an order of deportation from the United States pursuant to section 1252 of title 8, United States Code, who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have been deported from this country.

(c) An alien who is the subject of an order of exclusion and deportation from the United States pursuant to section 1226 of title 8, United States Code, who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have been excluded from admission and deported from the United States.

II. EXCERPTS FROM RECENT ACTS

[As Amended Through P.L. 104–8, May 1, 1995; References in Brackets to Sections are to Those Sections of the Immigration and Nationality Act]

A. IMMIGRATION ACT OF 1990 AND PROVISIONS SUPERSEDED

1. IMMIGRATION ACT OF 1990

(Public Law 101–649, Nov. 29, 1990; as amended by P.L. 102–65 (July 2, 1991, 105 Stat. 322), § 4 of the Armed Forces Immigration Adjustment Act of 1991 (P.L. of 102–110, Oct. 1, 1991, 105 Stat. 557), title III of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102–232, Dec. 12, 1991, 105 Stat. 1742 et seq., and title II of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103–416, Oct. 25, 1994, 108 Stat. 4310 et seq.))

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Immigration Act of 1990”.

(b) **REFERENCES IN ACT.**—Except as specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to or repeal of a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

(c) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; references in Act; table of contents.

TITLE I—IMMIGRANTS

Subtitle A—Worldwide and Per Country Levels

- Sec. 101. Worldwide levels.
- Sec. 102. Per country levels.
- Sec. 103. Treatment of Hong Kong under per country levels.
- Sec. 104. Asylee adjustments.

Subtitle B—Preference System

PART 1—FAMILY-SPONSORED IMMIGRANTS

- Sec. 111. Family-sponsored immigrants.
- Sec. 112. Transition for spouses and minor children of legalized aliens.

PART 2—EMPLOYMENT-BASED IMMIGRANTS

- Sec. 121. Employment-based immigrants.
- Sec. 122. Changes in labor certification process.
- Sec. 123. Definitions of managerial capacity and executive capacity.
- Sec. 124. Transition for employees of certain United States businesses operating in Hong Kong.

PART 3—DIVERSITY IMMIGRANTS

- Sec. 131. Diversity immigrants.
- Sec. 132. Diversity transition for aliens who are natives of certain adversely affected foreign states.
- Sec. 133. One-year diversity transition for aliens who have been notified of availability of NP–5 visas.
- Sec. 134. Transition for displaced Tibetans.

Subtitle C—Commission and Information

- Sec. 141. Commission on Immigration Reform.
- Sec. 142. Statistical information systems.

Subtitle D—Miscellaneous

- Sec. 151. Revision of special immigrant provisions relating to religious workers (C special immigrants).

- Sec. 152. Special immigrant status for certain aliens employed at the United States mission in Hong Kong (D special immigrants).
- Sec. 153. Special immigrant status for certain aliens declared dependent on a juvenile court (J special immigrants).
- Sec. 154. Permitting extension of period of validity of immigrant visas for certain residents of Hong Kong.
- Sec. 155. Expedited issuance of Lebanese second and fifth preference visas.

Subtitle E—Effective Dates; Conforming Amendments

- Sec. 161. Effective dates.
- Sec. 162. Conforming amendments.

TITLE II—NONIMMIGRANTS

Subtitle A—General and Permanent Provisions

- Sec. 201. Revision and extension of the visa waiver pilot program for foreign tourists (B nonimmigrants).
- Sec. 202. Denial of crewmember status in the case of certain labor disputes (D nonimmigrants).
- Sec. 203. Limitations on performance of longshore work by alien crewmen (D nonimmigrants).
- Sec. 204. Treaty traders (E nonimmigrants).
- Sec. 205. Temporary workers and trainees (H nonimmigrants).
- Sec. 206. Intra-company transferees (L nonimmigrants).
- Sec. 207. New classification for aliens with extraordinary ability, accompanying aliens, and athletes and entertainers (O & P nonimmigrants).
- Sec. 208. New classification for international cultural exchange programs (Q nonimmigrants).
- Sec. 209. New classification for aliens in religious occupations (R nonimmigrants).

Subtitle B—Temporary or Limited Provisions

- Sec. 221. Off-campus work authorization for students (F nonimmigrants).
- Sec. 222. Admission of nonimmigrants for cooperative research, development, and coproduction projects.
- Sec. 223. Establishment of special education exchange visitor program.

Subtitle C—Effective Dates

- Sec. 231. Effective dates.

TITLE III—FAMILY UNITY AND TEMPORARY PROTECTED STATUS

- Sec. 301. Family unity.
- Sec. 302. Temporary protected status.
- Sec. 303. Special temporary protected status for Salvadorans.

TITLE IV—NATURALIZATION

- Sec. 401. Administrative naturalization.
- Sec. 402. Substituting 3 months residence in INS district or State for 6 months residence in a State.
- Sec. 403. Waiver of English language requirement for naturalization.
- Sec. 404. Treatment of service in armed forces of a foreign country.
- Sec. 405. Naturalization of natives of the Philippines through certain active-duty service during World War II.
- Sec. 406. Public education regarding naturalization benefits.
- Sec. 407. Conforming amendments.
- Sec. 408. Effective dates and savings provisions.

TITLE V—ENFORCEMENT

Subtitle A—Criminal Aliens

- Sec. 501. Aggravated felony definition.
- Sec. 502. Shortening period to request judicial review.
- Sec. 503. Enhancing enforcement authority of INS officers.
- Sec. 504. Custody pending determination of deportability and excludability.
- Sec. 505. Elimination of judicial recommendations against deportation.
- Sec. 506. Clarification respecting discretionary authority in deportation proceedings for incarcerated aliens.
- Sec. 507. Requiring coordination plan with INS as a condition for receipt of drug control and system improvement grants under the Omnibus Crime Control and Safe Streets Act of 1968.
- Sec. 508. Deportation for attempted violations of controlled substances laws.
- Sec. 509. Good moral character definition.
- Sec. 510. Report on criminal aliens.
- Sec. 511. Limitation on waiver of exclusion for returning permanent residents convicted of an aggravated felony.
- Sec. 512. Authorization of additional immigration judges for deportation proceedings involving criminal aliens.
- Sec. 513. Effect of filing petition for review.
- Sec. 514. Extending bar on reentry of aliens convicted of aggravated felonies.
- Sec. 515. Asylum in the case of aliens convicted of aggravated felonies.

Subtitle B—Provision Relating to Employer Sanctions

- Sec. 521. Elimination of paperwork requirement for recruiters and referrers.

Subtitle C—Provisions Relating to Anti-Discrimination

- Sec. 531. Dissemination of information concerning anti-discrimination protections under IRCA and title VII of the Civil Rights Act of 1964.
- Sec. 532. Inclusion of certain seasonal agricultural workers within scope of anti-discrimination protections.
- Sec. 533. Elimination of requirement that aliens file a declaration of intending to become a citizen in order to file anti-discrimination complaint.
- Sec. 534. Anti-retaliation protections.
- Sec. 535. Treatment of certain actions as discrimination.
- Sec. 536. Conforming civil money penalties for anti-discrimination violations to those for employer sanctions.
- Sec. 537. Period for filing of complaints.
- Sec. 538. Special Counsel access to employment eligibility verification forms.
- Sec. 539. Additional relief in orders.

Subtitle D—General Enforcement

- Sec. 541. Authorizing increase by 1,000 in border patrol personnel.
 Sec. 542. Application of increase in penalties to enhance enforcement activities.
 Sec. 543. Increase in fine levels; authority of the INS to collect fines.
 Sec. 544. Civil penalties for document fraud.
 Sec. 545. Deportation procedures; required notice of deportation hearing; limitation on discretionary relief.

TITLE VI—EXCLUSION AND DEPORTATION

- Sec. 601. Revision of grounds for exclusion.
 Sec. 602. Revision of grounds for deportation.
 Sec. 603. Conforming amendments.

TITLE VII—MISCELLANEOUS PROVISIONS

- Sec. 701. Battered spouse or child waiver of the conditional residence requirement.
 Sec. 702. Bona fide marriage exception to foreign residence requirement for marriages entered into during certain immigration proceedings.
 Sec. 703. 1-year extension of deadline for filing applications for adjustment from temporary to permanent [sic] residence for legalized aliens.
 Sec. 704. Commission on Agricultural Workers.
 Sec. 705. Immigration Emergency Fund.

TITLE VIII—EDUCATION AND TRAINING

- Sec. 801. Educational assistance and training.

TITLE I—IMMIGRANTS

Subtitle A—Worldwide and Per Country Levels

SEC. 101. WORLDWIDE LEVELS.

- (a) IN GENERAL.—[Omitted; revised entire text of section 201.]
 (b) CLERICAL AMENDMENT.—[Omitted; conforming amendment to table of contents.]
 (c)¹ TRANSITION.—In applying the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (as amended by subsection (a)) in the case of a alien whose citizen spouse died before the date of the enactment of this Act, notwithstanding the deadline specified in such sentence the alien spouse may file the classification petition referred to in such sentence within 2 years after the date of the enactment of this Act.

SEC. 102. PER COUNTRY LEVELS.

Section 202 (8 U.S.C. 1152) is amended—

- (1) [Omitted; amended entire text of subsection (a) of section 202.]
 - (2) in subsection (b)—
 - (A) by inserting “RULES FOR CHARGEABILITY.—” after “(b)”, and
 - (B) by striking “the numerical limitation set forth in the proviso to subsection (a) of this section” each place it appears and inserting “a numerical level established under subsection (a)(2)”;
 - (3) in subsection (c)—
 - (A) by inserting “CHARGEABILITY FOR DEPENDENT AREAS.—” after “(c)”
 - (B) by striking “a special immigrant” and all that follows through “201(b)” and inserting “an alien described in section 201(b)”, and
 - (C) by striking “, and the number” and all that follows through “one fiscal year”;
 - (4) in subsection (d), by inserting “CHANGES IN TERRITORY.—” after “(d)”;
- and
- (5) [Omitted; amended entire text of subsection (e) of section 202.]

SEC. 103. TREATMENT OF HONG KONG UNDER PER COUNTRY LEVELS.

The approval referred to in the first sentence of section 202(b) of the Immigration and Nationality Act shall be considered to have been granted, effective beginning with fiscal year 1991, with respect to Hong Kong as a separate foreign state, and not as a colony or other component or dependent area of another foreign state, except that the total number of immigrant visas made available to natives of Hong Kong under subsections (a) and (b) of section 203 of such Act in each of fiscal years 1991, 1992, and 1993 may not exceed 10,000.

¹ Subsection (c) was added by § 302(a)(2) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102–232, Dec. 12, 1991, 105 Stat. 1742), effective as if included in the enactment of the Immigration Act of 1990.

SEC. 104. ASYLEE ADJUSTMENTS.

(a) INCREASE IN NUMERICAL LIMITATION ON ADJUSTMENT OF ASYLEES.—

(1) IN GENERAL.—Section 209(b) (8 U.S.C. 1159(b)) is amended by striking “five thousand” and inserting “10,000”.

(2) EFFECTIVE DATE AND TRANSITION.—The amendment made by paragraph (1) shall apply to fiscal years beginning with fiscal year 1991 and the President is authorized, without the need for appropriate consultation, to increase the refugee determination previously made under section 207 of the Immigration and Nationality Act for fiscal year 1991 in order to make such amendment effective for such fiscal year.

(b) ANNUAL ASYLEE ENUMERATION.—Section 207(a) (8 U.S.C. 1157(a)) is amended by adding at the end the following new paragraph:

“(4) In the determination made under this subsection for each fiscal year (beginning with fiscal year 1992), the President shall enumerate, with the respective number of refugees so determined, the number of aliens who were granted asylum in the previous year.”

(c) WAIVER OF NUMERICAL LIMITATION FOR CERTAIN CURRENT ASYLEES.—The numerical limitation on the number of aliens whose status may be adjusted under section 209(b) of the Immigration and Nationality Act shall not apply to an alien described in subsection (d) or to an alien who has applied for adjustment of status under such section on or before June 1, 1990.

(d) ADJUSTMENT OF CERTAIN FORMER ASYLEES.—

(1) IN GENERAL.—Subject to paragraph (2), the provisions of section 209(b) of the Immigration and Nationality Act shall also apply to an alien—

(A) who was granted asylum before the date of the enactment of this Act (regardless of whether or not such asylum has been terminated under section 208(b) of the Immigration and Nationality Act),

(B) who is no longer a refugee because of a change in circumstances in a foreign state, and

(C) who was (or would be) qualified for adjustment of status under section 209(b) of the Immigration and Nationality Act as of the date of the enactment of this Act but for paragraphs (2) and (3) thereof and but for any numerical limitation under such section.

(2) APPLICATION OF PER COUNTRY LIMITATIONS.—The number of aliens who are natives of any foreign state who may adjust status pursuant to paragraph (1) in any fiscal year shall not exceed the difference between the per country limitation established under section 202(a) of the Immigration and Nationality Act and the number of aliens who are chargeable to that foreign state in the fiscal year under section 202 of such Act.

Subtitle B—Preference System

PART 1—FAMILY-SPONSORED IMMIGRANTS

SEC. 111. FAMILY-SPONSORED IMMIGRANTS.

Section 203 (8 U.S.C. 1153) is amended—

(1) by redesignating subsections (b) through (e) as subsections (d) through (g), respectively, and

(2) [Omitted; revised text of subsection (a) of section 203.]

SEC. 112. TRANSITION FOR SPOUSES AND MINOR CHILDREN OF LEGALIZED ALIENS.

(a) ADDITIONAL VISA NUMBERS.—

(1) IN GENERAL.—In addition to any immigrant visas otherwise available, immigrant visa numbers shall be available in each of fiscal years 1992, 1993, and 1994 for spouses and children of eligible, legalized aliens (as defined in subsection (c)) in a number equal to 55,000 minus the number (if any) computed under paragraph (2) for the fiscal year.

(2) OFFSET.—The number computed under this paragraph for a fiscal year is the number (if any) by which—

(A) the sum of the number of aliens described in subparagraphs (A) and (B) of section 201(b)(2) of the Immigration and Nationality Act (or, for fiscal year 1992, section 201(b) of such Act) who were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence in the previous fiscal year, exceeds

(B) 239,000.

(b) **ORDER.**—Visa numbers under this section shall be made available in the order in which a petition, in behalf of each such immigrant for classification under section 203(a)(2) of the Immigration and Nationality Act, is filed with the Attorney General under section 204 of such Act.

(c) **LEGALIZED ALIEN DEFINED.**—In this section, the term “legalized alien” means an alien lawfully admitted for permanent residence who was provided—

(1) temporary or permanent residence status under section 210 of the Immigration and Nationality Act,

(2) temporary or permanent residence status under section 245A of the Immigration and Nationality Act, or

(3) permanent residence status under section 202 of the Immigration Reform and Control Act of 1986.

(d)² **DEFINITIONS.**—The definitions in the Immigration and Nationality Act shall apply in the administration of this section.

PART 2—EMPLOYMENT-BASED IMMIGRANTS

SEC. 121. EMPLOYMENT-BASED IMMIGRANTS.

(a) **IN GENERAL.**—[Omitted; inserted a new subsection (b) in section 203.]

(b) **DETERRING IMMIGRATION-RELATED ENTREPRENEURSHIP FRAUD.**—

(1) **CONDITIONAL BASIS FOR PERMANENT RESIDENT STATUS BASED ON ESTABLISHMENT OF COMMERCIAL ENTERPRISES.**—[Omitted; inserted section 216A.]

(2) **ADDITIONAL GROUND FOR DEPORTATION.**—For additional ground of deportation for termination of permanent residence on a conditional basis under section 216A of the Immigration and Nationality Act, see section 241(a)(1)(D) of such Act, as amended by section 602(a) of this Act.

(3) **CRIMINAL PENALTY FOR IMMIGRATION-RELATED ENTREPRENEURSHIP FRAUD.**—[Omitted; added subsection (c) at end of section 275.]

(4) **LIMITATION ON ADJUSTMENT OF STATUS.**—[Omitted; added subsection (f) at the end of section 245.]

(5) **CONFORMING AMENDMENT.**—[Omitted; conforming amendment to table of contents.]

SEC. 122. CHANGES IN LABOR CERTIFICATION PROCESS.

[Subsection (a) was stricken by § 219(ff) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4319, Oct. 25, 1994); it would appear that this amendment was effective as of November 29, 1990 (namely as if included in the enactment of the Immigration Act of 1990), under § 219(dd) of P.L. 103-416.]

(b) **NOTICE IN LABOR CERTIFICATIONS.**—The Secretary of Labor shall provide, in the labor certification process under section 212(a)(5)(A) of the Immigration and Nationality Act, that—

(1) no certification may be made unless the applicant for certification has, at the time of filing the application, provided notice of the filing (A) to the bargaining representative (if any) of the employer's employees in the occupational classification and area for which aliens are sought, or (B) if there is no such bargaining representative, to employees employed at the facility through posting in conspicuous locations; and

(2) any person may submit documentary evidence bearing on the application for certification (such as information on available workers, information on wages and working conditions, and information on the employer's failure to meet terms and conditions with respect to the employment of alien workers and co-workers).

SEC. 123. DEFINITIONS OF MANAGERIAL CAPACITY AND EXECUTIVE CAPACITY.

[Omitted; added paragraph (44) at the end of section 101(a).]

SEC. 124. TRANSITION FOR EMPLOYEES OF CERTAIN UNITED STATES BUSINESSES OPERATING IN HONG KONG.

(a) **ADDITIONAL VISA NUMBERS.**—

(1) **TREATMENT OF PRINCIPALS.**—In the case of any alien described in paragraph (3) (or paragraph (2) as the spouse or child of such an alien) with respect to whom a classification petition has been filed and approved under subsection (b), there shall be made available, in addition to the immigrant visas otherwise

²Subsection (d) was added by § 302(b)(1)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1743), effective as if included in the enactment of the Immigration Act of 1990.

available in each of fiscal years 1991 through 1993 and without regard to section 202(a) of the Immigration and Nationality Act, up to 12,000 additional immigrant visas. If the full number of such visas are not made available in fiscal year 1991 or 1992, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year.³

(2) **DERIVATIVE RELATIVES.**—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under this section, if accompanying, or following to join, the alien's spouse or parent.

(3) **EMPLOYEES OF CERTAIN UNITED STATES BUSINESSES OPERATING IN HONG KONG.**—An alien is described in this paragraph if the alien—

(A) is a resident of Hong Kong and is employed in Hong Kong except for temporary absences at the request of the employer and has been employed in Hong Kong for at least 12 consecutive months as an officer or supervisor or in a capacity that is managerial, executive, or involves specialized knowledge, by a business entity which (i) is owned and organized in the United States (or is the subsidiary or affiliate of a business owned and organized in the United States), (ii) employs at least 100 employees in the United States and at least 50 employees outside the United States, and (iii) has a gross annual income of at least \$50,000,000, and

(B) has an offer of employment from such business entity in the United States as an officer or supervisor or in a capacity that is managerial, executive, or involves specialized knowledge, which offer (i) is effective from the time of filing the petition for classification under this section through and including the time of entry into the United States and (ii) provides for salary and benefits comparable to the salary and benefits provided to others with similar responsibilities and experience within the same company.

(b) **PETITIONS.**—Any employer desiring and intending to employ within the United States an alien described in subsection (a)(3) may file a petition with the Attorney General for such classification. No visa may be issued under subsection (a)(1) until such a petition has been approved.

(c) **ALLOCATION.**—Visa numbers made available under subsection (a) shall be made available in the order which petitions under subsection (b) are filed with the Attorney General.

(d) **DEFINITIONS.**—In this section:

(1) **EXECUTIVE CAPACITY.**—The term “executive capacity” has the meaning given such term in section 101(a)(44)(B) of the Immigration and Nationality Act, as added by section 123 of this Act.

(2) **MANAGERIAL CAPACITY.**—The term “managerial capacity” has the meaning given such term in section 101(a)(44)(A) of the Immigration and Nationality Act, as added by section 123 of this Act.

(3) **OFFICER.**—The term “officer” means, with respect to a business entity, the chairman or vice-chairman of the board of directors of the entity, the chairman or vice-chairman of the executive committee of the board of directors, the president, any vice-president, any assistant vice-president, any senior trust officer, the secretary, any assistant secretary, the treasurer, any assistant treasurer, any trust officer or associate trust officer, the controller, any assistant controller, or any other officer of the entity customarily performing functions similar to those performed by any of the above officers.

(4) **SPECIALIZED KNOWLEDGE.**—The term “specialized knowledge” has the meaning given such term in section 214(c)(2)(B) of the Immigration and Nationality Act, as amended by section 206(b)(2) of this Act.

(5) **SUPERVISOR.**—The term “supervisor” means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely of a routine or clerical nature, but requires the use of independent judgment.

³The last sentence was added by § 302(b)(5) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1743), effective as if included in the enactment of the Immigration Act of 1990.

PART 3—DIVERSITY IMMIGRANTS

SEC. 131. DIVERSITY IMMIGRANTS.

[Omitted; inserted subsection (c) in section 203.]

SEC. 132. DIVERSITY TRANSITION FOR ALIENS WHO ARE NATIVES OF CERTAIN ADVERSELY AFFECTED FOREIGN STATES.

(a) **IN GENERAL.**—Notwithstanding the numerical limitations in sections 201 and 202 of the Immigration and Nationality Act, there shall be made available to qualified immigrants described in subsection (b) (or in subsection (d) as the spouse or child of such an alien) 40,000 immigrant visas in each of fiscal years 1992, 1993, and 1994 and ^{3a} in fiscal year 1995 a number of immigrant visas equal to the number of such visas provided (but not made available) under this section in previous fiscal years. If the full number of such visas are not made available in fiscal year 1992 or 1993, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year.⁴

(b) **QUALIFIED ALIEN DESCRIBED.**—An alien described in this subsection is an alien who—

(1) is a native of a foreign state⁵ that was identified as an adversely affected foreign state for purposes of section 314 of the Immigration Reform and Control Act of 1986,

(2) has a firm commitment for employment in the United States for a period of at least 1 year (beginning on the date of admission under this section), and

(3) except as provided in subsection (c), is admissible as an immigrant.

(c)⁶ **DISTRIBUTION OF VISA NUMBERS.**—The Secretary of State shall provide for making immigrant visas provided under subsection (a) available strictly in a random order among those who qualify during the application period for each fiscal year established by the Secretary of State, except that at least 40 percent of the number of such visas in each fiscal year shall be made available to natives of the foreign state the natives of which received the greatest number of visas issued under section 314 of the Immigration Reform and Control Act (or to aliens described in subsection (d) who are the spouses or children of such natives) and except that if more than one application is submitted for any fiscal year (beginning with fiscal year 1993) with respect to any alien all such applications submitted with respect

^{3a} Matter relating to fiscal year 1995 was inserted by subsection (a)(1) of § 217 of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4315, Oct. 25, 1994). Subsection (b) of that section provides as follows:

(b) **ADMINISTRATION OF 1995 DIVERSITY TRANSITION PROGRAM.**—

(1) **ELIGIBILITY.**—For the purpose of carrying out the extension of the diversity transition program under the amendments made by subsection (a), applications for natives of diversity transition countries submitted for fiscal year 1995 for diversity immigrants under section 203(c) of the Immigration and Nationality Act shall be considered applications for visas made available for fiscal year 1995 for the diversity transition program under section 132 of the Immigration Act of 1990. No application period for the fiscal year 1995 diversity transition program shall be established and no new applications may be accepted for visas made available under such program for fiscal year 1995. Applications for visas in excess of the minimum available to natives of the country specified in section 132(c) of the Immigration Act of 1990 shall be selected for qualified applicants within the several regions defined in section 203(c)(1)(F) of the Immigration and Nationality Act in proportion to the region's share of visas issued in the diversity transition program during fiscal years 1992 and 1993.

(2) **NOTIFICATION.**—Not later than 180 days after the date of enactment of this Act, notification of the extension of the diversity transition program for fiscal year 1995 and the provision of visa numbers shall be made to each eligible applicant under paragraph (1).

(3) **REQUIREMENTS.**—Notwithstanding any other provision of law, for the purpose of carrying out the extension of the diversity transition program under the amendments made by subsection (a), the requirement of section 132(b)(2) of the Immigration Act of 1990 shall not apply to applicants under such extension and the requirement of section 203(c)(2) of the Immigration and Nationality Act shall apply to such applicants.

⁴ The last sentence was added by § 302(b)(6)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1743).

⁵ The phrase “that is not contiguous to the United States and” was stricken by § 302(b)(6)(C) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1743), effective after fiscal year 1992.

⁶ The phrase beginning with “strictly” through “Secretary of State” was substituted for “in the chronological order in which aliens apply for each fiscal year”, the phrase “and except that” through “voided” was inserted, and the last sentence was added by § 302(b)(6)(D) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1743, 1744), effective beginning with fiscal year 1993.

to the alien and fiscal year shall be voided. If the minimum number of such visas are not made available in fiscal year 1992 or 1993 to such natives, the shortfall shall be added to the number of such visas to be made available under this section to such natives in the succeeding fiscal year. In applying this section, natives of Northern Ireland shall be deemed to be natives of Ireland.

(d) **DERIVATIVE STATUS FOR SPOUSES AND CHILDREN.**—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under this section, if accompanying, or following to join, his spouse or parent.

(e) **WAIVERS OF GROUNDS OF EXCLUSION.**—In determining the admissibility of an alien provided a visa number under this section, the Attorney General shall waive the ground of exclusion specified in paragraph (6)(C) of section 212(a) of the Immigration and Nationality Act, unless the Attorney General finds that such a waiver is not in the national interest. In addition, the provisions of section 212(e) of such Act shall not apply so as to prevent an individual's application for a visa or admission under this section.⁷

(f) **APPLICATION FEE.**—The Secretary of State shall require payment of a reasonable fee for the filing of an application under this section in order to cover the costs of processing applications under this section.

SEC. 133. ONE-YEAR DIVERSITY TRANSITION FOR ALIENS WHO HAVE BEEN NOTIFIED OF AVAILABILITY OF NP-5 VISAS.

Notwithstanding the numerical limitations in sections 201 and 202 of the Immigration and Nationality Act, there shall be made available in fiscal year 1991 immigrant visa numbers for qualified immigrants who—

(1) were notified by the Secretary of State before May 1, 1990, of their selection for issuance of a visa under section 314 of the Immigration Reform and Control Act of 1986, and

(2) are qualified for the issuance of such a visa but for (A) numerical and fiscal year limitations on the issuance of such visas, (B) section 212(a)(19) or 212(e) of the Immigration and Nationality Act, or (C) the fact that the immigrant was a national, but not a native, of a foreign state described in section 314 of the Immigration Reform and Control Act of 1986.

Visas shall be made available under this section to spouses and children of qualified immigrants in the same manner as such visas were made available to such spouses and children under section 314 of the Immigration Reform and Control Act of 1986. The Attorney General may waive section 212(a)(19) of the Immigration and Nationality Act (or, on or after June 1, 1991, section 212(a)(6)(C) of such Act) in the case of qualified immigrants described in the first sentence of this section.

SEC. 134. TRANSITION FOR DISPLACED TIBETANS.

(a) **IN GENERAL.**—Notwithstanding the numerical limitations in sections 201 and 202 of the Immigration and Nationality Act, there shall be made available to qualified displaced Tibetans described in subsection (b) (or in subsection (d) as the spouse or child of such an alien) 1,000 immigrant visas in the 3-fiscal-year period beginning with fiscal year 1991.

(b) **QUALIFIED DISPLACED TIBETAN DESCRIBED.**—An alien described in this subsection is an alien who—

(1) is a native of Tibet, and

(2) since before date of the enactment of this Act, has been continuously residing in India or Nepal.

For purposes of paragraph (1), an alien shall be considered to be a native of Tibet if the alien was born in Tibet or is the son, daughter, grandson, or granddaughter of an individual born in Tibet.

(c) **DISTRIBUTION OF VISA NUMBERS.**—The Secretary of State shall provide for making immigrant visas provided under subsection (a) available to displaced aliens described in subsection (b) (or described in subsection (d) as the spouse or child of such an alien) in an equitable manner, giving preference to those aliens who are not firmly resettled in India or Nepal or who are most likely to be resettled successfully in the United States.

(d) **DERIVATIVE STATUS FOR SPOUSES AND CHILDREN.**—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality

⁷ The last sentence was added by § 302(b)(6)(E)(iii) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1743), effective as if included in the enactment of the Immigration Act of 1990.

Act) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under this section, if accompanying, or following to join, his spouse or parent.

Subtitle C—Commission and Information

SEC. 141. COMMISSION ON IMMIGRATION REFORM.

(a) **ESTABLISHMENT AND COMPOSITION OF COMMISSION.**—(1) Effective October 1, 1991, there is established a Commission on Immigration Reform (in this section referred to as the “Commission”) which shall be composed of 9 members to be appointed as follows:

(A) One member who shall serve as Chairman, to be appointed by the President.

(B) Two members to be appointed by the Speaker of the House of Representatives who shall select such members from a list of nominees provided by the Chairman of the Committee on the Judiciary of the House of Representatives.

(C) Two members to be appointed by the Minority Leader of the House of Representatives who shall select such members from a list of nominees provided by the ranking minority member of the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary of the House of Representatives.

(D) Two members to be appointed by the Majority Leader of the Senate who shall select such members from a list of nominees provided by the Chairman of the Subcommittee on Immigration and Refugee Affairs of the Committee on the Judiciary of the Senate.

(E) Two members to be appointed by the Minority Leader of the Senate who shall select such members from a list of nominees provided by the ranking minority member of the Subcommittee on Immigration and Refugee Affairs of the Committee on the Judiciary of the Senate.

(2) Initial appointments to the Commission shall be made during the 45-day period beginning on October 1, 1991. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(3) Members shall be appointed to serve for the life of the Commission, except that the term of the member described in paragraph (1)(A) shall expire at noon on January 20, 1993, and the President shall appoint an individual to serve for the remaining life of the Commission.

(b) **FUNCTIONS OF COMMISSION.**—The Commission shall—

(1) review and evaluate the impact of this Act and the amendments made by this Act, in accordance with subsection (c); and

(2) transmit to the Congress—

(A) not later than September 30, 1994, a first report describing the progress made in carrying out paragraph (1), and

(B) not later than September 30, 1997, a final report setting forth the Commission's findings and recommendations, including such recommendations for additional changes that should be made with respect to legal immigration into the United States as the Commission deems appropriate.

(c) **CONSIDERATIONS.**—

(1) **PARTICULAR CONSIDERATIONS.**—In particular, the Commission shall consider the following:

(A) The requirements of citizens of the United States and of aliens lawfully admitted for permanent residence to be joined in the United States by immediate family members and the impact which the establishment of a national level of immigration has upon the availability and priority of family preference visas.

(B) The impact of immigration and the implementation of the employment-based and diversity programs on labor needs, employment, and other economic and domestic conditions in the United States.

(C) The social, demographic, and natural resources impact of immigration.

(D) The impact of immigration on the foreign policy and national security interests of the United States.

(E) The impact of per country immigration levels on family-sponsored immigration.

(F) The impact of the numerical limitation on the adjustment of status of aliens granted asylum.

(G) The impact of the numerical limitations on the admission of nonimmigrants under section 214(g) of the Immigration and Nationality Act.

(2) DIVERSITY PROGRAM.—The Commission shall analyze the information maintained under section 203(c)(3) of the Immigration and Nationality Act and shall report to Congress in its report under subsection (b)(2) on—

(A) the characteristics of individuals admitted under section 203(c) of the Immigration and Nationality Act, and

(B) how such characteristics compare to the characteristics of family-sponsored immigrants and employment-based immigrants.

The Commission shall include in the report an assessment of the effect of the requirement of paragraph (2) of section 203(c) of the Immigration and Nationality Act on the diversity, educational, and skill level of aliens admitted.

(d) COMPENSATION OF MEMBERS.—(1) Each member of the Commission who is not an officer or employee of the Federal Government is entitled to receive, subject to such amounts as are provided in advance in appropriations Acts, pay at the daily equivalent of the minimum annual rate of basic pay in effect for grade GS-18 of the General Schedule^{7a}. Each member of the Commission who is such an officer or employee shall serve without additional pay.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(e) MEETINGS, STAFF, AND AUTHORITY OF COMMISSION.—The provisions of subsections (e) through (g) of section 304 of the Immigration Reform and Control Act of 1986 shall apply to the Commission in the same manner as they apply to the Commission established under such section, except that paragraph (2) of subsection (e) thereof shall not apply.

(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this section.

(2) Notwithstanding any other provision of this section, the authority to make payments, or to enter into contracts, under this section shall be effective only to such extent, or in such amounts, as are provided in advance in appropriations Acts.

(g) TERMINATION DATE.—The Commission shall terminate on the date on which a final report is required to be transmitted under subsection (b)(2)(B), except that the Commission may continue to function until January 1, 1998, for the purpose of concluding its activities, including providing testimony to standing committees of Congress concerning its final report under this section and disseminating that report.

(h) CONGRESSIONAL RESPONSE.—(1) No later than 90 days after the date of receipt of each report transmitted under subsection (b)(2), the Committees on the Judiciary of the House of Representatives and of the Senate shall initiate hearings to consider the findings and recommendations of the report.

(2) No later than 180 days after the date of receipt of such a report, each such Committee shall report to its respective House its oversight findings and any legislation it deems appropriate.

(i)⁸ PRESIDENTIAL REPORT.—The President shall conduct a review and evaluation and provide for the transmittal of reports to the Congress in the same manner as the Commission is required to conduct a review and evaluation and to transmit reports under subsection (b).

SEC. 142. STATISTICAL INFORMATION SYSTEM.

[Omitted; added subsections (c) and (d) to section 103.]

^{7a} Under § 101(c)(1)(A)(i) of the Treasury, Postal Service and General Government Appropriations Act, 1991 (P.L. 101-509, 105 Stat. 1442, Nov. 5, 1990), the reference in this section to the rate of pay in effect for grade GS-18 of the General Schedule is considered a reference to the maximum rate payable under section 5376 of title 5, United States Code, as amended by section 102(a) of that Act.

⁸ Subsection (i) was added by § 302(c)(1)(D) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1744).

Subtitle D—Miscellaneous

SEC. 151. REVISION OF SPECIAL IMMIGRANT PROVISIONS RELATING TO RELIGIOUS WORKERS (C SPECIAL IMMIGRANTS).

(a) IN GENERAL.—[Omitted; revised subparagraph (C) of section 101(a)(27) in its entirety.]

(b) REFERENCE TO NEW NONIMMIGRANT CLASSIFICATION.—For establishment of nonimmigrant classification for religious workers, see section 209.

SEC. 152. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS EMPLOYED AT THE UNITED STATES MISSION IN HONG KONG (D SPECIAL IMMIGRANTS).

(a) IN GENERAL.—Subject to subsection (c), an alien described in subsection (b) shall be treated as a special immigrant described in section 101(a)(27)(D) of the Immigration and Nationality Act.

(b) ALIENS COVERED.—An alien is described in this subsection if—

(1) the alien is—

(A) an employee at the United States consulate in Hong Kong under the authority of the Chief of Mission (including employment pursuant to section 5913 of title 5, United States Code) and has performed faithful service as such an employee for a total of three years or more, or

(B) a member of the immediate family (as defined in 6 Foreign Affairs Manual 117k as of the date of the enactment of this Act) of an employee described in subparagraph (A) who has been living with the employee in the same household;

(2) the welfare of the employee or such an immediate family member is subject to a clear threat due directly to the employee's employment with the United States Government or under a United States Government official; and

(3) the principal officer in Hong Kong, in the officer's discretion, has recommended the granting of special immigrant status to such alien in exceptional circumstances and the Secretary of State approves such recommendation and finds that it is in the national interest to grant such status.

(c) EXPIRATION.—Subsection (a) shall only apply to aliens who file an application for special immigrant status under this section by not later than January 1, 2002.

(d) LIMITED WAIVER OF NUMERICAL LIMITATIONS.—The first 500 visas made available to aliens as special immigrants under this section shall not be counted against any numerical limitation established under section 201 or 202 of the Immigration and Nationality Act.

SEC. 153. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS DECLARED DEPENDENT ON A JUVENILE COURT (J SPECIAL IMMIGRANTS).

(a) IN GENERAL.—[Omitted; added subparagraph (J) to section 101(a)(27).]

(b) WAIVER OF GROUNDS FOR DEPORTATION.—[Omitted; added subsection (h) to section 241.]

SEC. 154. PERMITTING EXTENSION OF PERIOD OF VALIDITY OF IMMIGRANT VISAS FOR CERTAIN RESIDENTS OF HONG KONG.

(a) EXTENDING PERIOD OF VALIDITY.—

(1) IN GENERAL.—Subject to paragraph (2), the limitation on the period of validity of an immigrant visa under section 221(c) of the Immigration and Nationality Act shall not apply in the case of an immigrant visa issued, on or after the date of the enactment of this Act and before September 1, 2001, to an alien described in subsection (b), but only if—

(A) the alien elects, within the period of validity of the immigrant visa under such section, to have this section apply, and

(B) before the date the alien seeks to be admitted to the United States for lawful permanent residence, the alien notifies the appropriate consular officer of the alien's intention to seek such admission and provides such officer with such information as the officer determines to be necessary to verify that the alien remains eligible for admission to the United States as an immigrant.

(2) LIMITATION ON EXTENSION.—In no case shall the period of validity of a visa be extended under paragraph (1) beyond January 1, 2002.

(3) TREATMENT UNDER NUMERICAL LIMITATIONS.—In applying the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act in the case of aliens for whose visas the period of validity is extended under this

section, such limitations shall only apply at the time of original issuance of the visas and not at the time of admission of such aliens.

(b) **ALIENS COVERED.**—An alien is described in this subsection if the alien—

(1)(A) is chargeable under section 202 of the Immigration and Nationality Act to Hong Kong or China,⁹ and

(B)(i) is residing in Hong Kong as of the date of the enactment of this Act and is issued an immigrant visa under paragraph (1), (2), (4), or (5) of section 203(a) of the Immigration and Nationality Act (as in effect on the date of the enactment of this Act) or under section 203(a) or 203(b)(1) of such Act (as in effect on and after October 1, 1991), or (ii) is the spouse or child (as defined in subsection (d)) of an alien described in clause (i), if accompanying or following to join the alien in coming to the United States; or

(2) is issued a visa under section 124 of this Act.

(c) **TREATMENT OF CERTAIN EMPLOYEES IN HONG KONG.**—

(1) **IN GENERAL.**—In applying the proviso of section 7 of the Central Intelligence Agency Act of 1949, in the case of an alien described in paragraph (2), the Director may charge the entry of the alien against the numerical limitation for any fiscal year (beginning with fiscal year 1991 and ending with fiscal year 1996) notwithstanding that the alien's entry is not made to the United States in that fiscal year so long as such entry is made before the end of fiscal year 1997.

(2) **ALIENS COVERED.**—An alien is described in this paragraph if the alien—

(A) is an employee of the Foreign Broadcast Information Service in Hong Kong, or

(B) is the spouse or child (as defined in subsection (d)) of an alien described in subparagraph (A), if accompanying or following to join the alien in coming to the United States.

(d) **TREATMENT OF CHILDREN.**—In this section, the term “child” has the meaning given such term in section 101(b)(1) of the Immigration and Nationality Act and also includes (for purposes of this section and the Immigration and Nationality Act as it applies to this section) an alien who was the child (as so defined) of the alien as of the date of the issuance of an immigrant visa to the alien described in subsection (b)(1) or, in the case described in subsection (c), as of the date of charging of the entry of the alien under the proviso under section 7 of the Central Intelligence Agency Act of 1949.

SEC. 155. EXPEDITED ISSUANCE OF LEBANESE SECOND AND FIFTH PREFERENCE VISAS.

(a) **IN GENERAL.**—In the issuance of immigrant visas to certain Lebanese immigrants described in subsection (b) in fiscal years 1991 and 1992 and notwithstanding section 203(c) (or section 203(e), in the case of fiscal year 1992) of the Immigration and Nationality Act (to the extent inconsistent with this section), the Secretary of State shall provide that immigrant visas which would otherwise be made available in the fiscal year shall be made available as early as possible in the fiscal year.

(b) **LEBANESE IMMIGRANTS COVERED.**—Lebanese immigrants described in this subsection are aliens who—

(1) are natives of Lebanon,

(2) are not firmly resettled in any foreign country outside Lebanon, and

(3) as of the date of the enactment of this Act, are the beneficiaries of a petition approved to accord status under section 203(a)(2) or 203(a)(5) of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act),

or who are the spouse or child of such an alien if accompanying or following to join the alien.

Subtitle E—Effective Dates; Conforming Amendments

SEC. 161. EFFECTIVE DATES.

(a) **IN GENERAL.**—Except as otherwise provided in this title, this title and the amendments made by this title shall take effect on October 1, 1991, and apply beginning with fiscal year 1992.

⁹The phrase “or China” was inserted by § 302(d)(4)(A) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1745), effective as if included in the enactment of the Immigration Act of 1990.

(b) PROVISIONS TAKING EFFECT UPON ENACTMENT.—The following sections (and amendments made by such sections) shall take effect on the date of the enactment of this Act and (unless otherwise provided) apply to fiscal year 1991:

- (1) Section 103 (relating to per country limitation for Hong Kong).
- (2) Section 104 (relating to asylee adjustments).
- (3) Section 124 (relating to transition for employees of certain U.S. businesses in Hong Kong).
- (4) Section 133 (relating to one-year diversity transition for aliens who have been notified of availability of NP-5 visas).
- (5) Section 134 (relating to transition for displaced Tibetans).
- (6) Section 153 (relating to special immigrants who are dependent on a juvenile court).
- (7) Section 154 (permitting extension of validity of visas for certain residents of Hong Kong).
- (8) Section 155 (relating to expedited issuance of Lebanese second and fifth preference visas).
- (9) Section 162(b) (relating to immigrant visa petitioning process), but only insofar as such section relates to visas for fiscal years beginning with fiscal year 1992.

(c) GENERAL TRANSITIONS.—

(1)¹⁰ In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1991, for preference status under section 203(a)(3) or section 203(a)(6) of such Act (as in effect before such date)^{10a}—

(A) in order to maintain the priority date with respect to such a petition^{10b}, the petitioner must file (by not later than October 1, 1993) a new petition for classification of the employment under paragraph (1), (2), or (3) of section 203(b) of such Act (as amended by this title), and

(B) any labor certification under section 212(a)(5)(A) of such Act required with respect to the new petition shall be deemed approved if the labor certification with respect to the previous petition was previously approved under section 212(a)(14) of such Act.

In the case of a petition filed under section 204(a) of such Act before October 1, 1991, but which is not described in paragraph (4), and for which a filing fee was paid, any additional filing fee shall not exceed one-half of the fee for the filing of the new petition referred to in subparagraph (A).

(2) Any petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1991, for preference status under section 203(a)(4) or section 203(a)(5) of such Act (as in effect before such date) shall be deemed, as of such date, to be a petition filed under such section for preference status under section 203(a)(3) or section 203(a)(4), respectively, of such Act (as amended by this title).

(3)¹¹ In the case of an alien who is described in section 203(a)(8) of the Immigration and Nationality Act (as in effect before October 1, 1991) as the spouse or child of an alien admitted for permanent residence as a preference immigrant under section 203(a)(3) or 203(a)(6) of such Act (as in effect before such date) and who would be entitled to enter the United States under such section 203(a)(8) but for the amendments made by this title, such an alien shall be deemed to be described in section 203(d) of such Act as the spouse or child of an [sic] alien described in section 203(b)(2) or 203(b)(3)(A)(i), respectively, of such Act with the same priority date as that of the principal alien.

(4)(A) Subject to subparagraph (B), any petition filed before October 1, 1991, and approved on any date, to accord status under section 203(a)(3) or

¹⁰ This paragraph was amended by § 302(e)(2) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1745), effective as if included in the enactment of the Immigration Act of 1990.

^{10a} § 218(1) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4316, Oct. 25, 1994), struck “or an application for labor certification before such date under section 212(a)(14)”.

^{10b} § 218(2) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4316, Oct. 25, 1994), struck “or application” after “such a petition”, and struck “, or 60 days after the date of certification in the case of labor certifications filed in support of the petition under section 212(a)(14) of such Act before October 1, 1991, but not certified until after October 1, 1993” after “October 1, 1993”.

¹¹ Paragraphs (3) and (4) were added by § 4 of the Armed Forces Immigration Adjustment Act of 1991 (P.L. 102-110, Oct. 1, 1991, 105 Stat. 557), effective as if included in the Immigration Act of 1990, and paragraph (3) was amended by § 219(aa) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4319, Oct. 25, 1994), effective as if included in section 4 of Public Law 102-110.

203(a)(6) of the Immigration and Nationality Act (as in effect before such date) shall be deemed, on and after October 1, 1991 (or, if later, the date of such approval), to be a petition approved to accord status under section 203(b)(2) or under the appropriate classification under section 203(b)(3), respectively, of such Act (as in effect on and after such date). Nothing in this subparagraph shall be construed as exempting the beneficiaries of such petitions from the numerical limitations under section 203(b)(2) or 203(b)(3) of such Act.

(B) Subparagraph (A) shall not apply more than two years after the date the priority date for issuance of a visa on the basis of such a petition has been reached.

(d) **ADMISSIBILITY STANDARDS.**—When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1991, makes application for admission, the immigrant's admissibility under paragraph (7)(A) of section 212(a) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa.

(e) **CONSTRUCTION.**—Nothing in this title shall be construed as affecting the provisions of section 19 of Public Law 97–116, section 2(c)(1) of Public Law 97–271, or section 202(e) of Public Law 99–603.

SEC. 162. CONFORMING AMENDMENTS.

(a) **RESTATEMENT OF DERIVATIVE STATUS, ORDER OF CONSIDERATION, ETC.**—(1) [Omitted; added subsections (d) through (g) of section 203.]

(2) Nothing in this Act may be construed as continuing the availability of visas under section 203(a)(7) of the Immigration and Nationality Act, as in effect before the date of enactment of this Act.

(b) **CHANGES IN PETITIONING PROCEDURE.**—Section 204 (8 U.S.C. 1154) is amended—

(1) in subsection (a), by striking “(a)(1)” and all that follows through the end of paragraph (1) and inserting the following:

[Omitted; inserted text of paragraph (1) of section 204(a).]

(2) in subsection (b)—

(A) by striking “section 203(a) (3) or (6)” and inserting “section 203(b)(2) or 203(b)(3)”, and

(B) by striking “a preference status under section 203(a)” and inserting “preference under subsection (a) or (b) of section 203”;

(3) in subsection (e), by striking “preference immigrant under section 203(a)” and inserting “immigrant under subsection (a), (b), or (c) of section 203”;

(4) in subsection (g)(1), by striking “203(a)(4)” and inserting “203(a)(3)”;

(5) by striking subsection (f); and

(6) by redesignating subsections (g) and (h) as (f) and (g), respectively.

[There are no subsections (c) and (d).]

(e) **ADDITIONAL CONFORMING AMENDMENTS.**—

[Paragraph (1) was repealed, and provisions of law amended by such paragraph restored as though the paragraph had not been enacted, by § 302(e)(6) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102–232, Dec. 12, 1991, 105 Stat. 1746).

(2) Section 244(d) (8 U.S.C. 1254(d)) is amended by striking “, and unless” and all that follows through “then current”.

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended—

(A) by striking “or nonpreference”,

(B) by striking “202(e) or 203(a)” and inserting “201(a)”, and

(C) by striking “for the fiscal year then current” and inserting “for the succeeding fiscal year”.

(4) Section 3304(a)(14)(A) of the Internal Revenue Code of 1986 is amended by striking “section 203(a)(7) or”.

(5) Section 1614(a)(1)(B)(i) of the Social Security Act is amended by striking “section 203(a)(7) or”.

(6) Section 2(c)(4) of the Virgin Islands Nonimmigrant Alien Adjustment Act of 1982 (Public Law 97–271) is amended by inserting before the period at the end the following: “(as in effect before October 1, 1991) or by reason of the relationship described in section 203(a)(2), 203(a)(3), or 203(a)(4), or 201(b)(2)(A)(i), respectively, of such Act (as in effect on or after such date)”.

(f) **TECHNICAL CORRECTIONS TO IMMIGRATION NURSING RELIEF ACT OF 1989.**—

(1) Section 2(b) of the Immigration Nursing Relief Act of 1989 (Public Law 101–238) is amended—

(A) by striking “December 31, 1989” and inserting “September 1, 1989”,

(B) by striking “in the lawful status” and inserting “in the status”,

(C) by inserting “unauthorized employment performed before the date of the enactment of the Immigration Act of 1990 shall not be taken into account in applying section 245(c)(2) of the Immigration and Nationality Act and” after “spouse or child of such an alien,” and

(D) by striking “lawful status as such a nonimmigrant” and all that follows through “subsection (a)” and inserting “lawful status throughout his or her stay in the United States as a nonimmigrant until the end of the 120-day period beginning on the date the Attorney General promulgates regulations carrying out the amendments made by section 162(f)(1) of the Immigration Act of 1990”.

(2)(A) Section 101(a)(15)(H)(i)(a) (8 U.S.C. 1101(a)(15)(H)(i)(a)) is amended by striking “for the facility for which the alien will perform the services, or” and inserting “for each facility (which facility shall include the petitioner and each worksite, other than a private household worksite, if the worksite is not the alien’s employer or controlled by the employer) for which the alien will perform the services, or”.

(B) Section 212(m)(2)(A) (8 U.S.C. 1182(m)(2)(A)) is amended—

(i) by striking “, with respect to a facility for which an alien will perform services,”,

(ii) in clause (iii), by inserting “employed by the facility” after “The alien”, and

(iii) by adding at the end the following: “In the case of an alien for whom an employer has filed an attestation under this subparagraph and who is performing services at a worksite other than the employer’s or other than a worksite controlled by the employer, the Secretary may waive such requirements for the attestation for the worksite as may be appropriate in order to avoid duplicative attestations, in cases of temporary, emergency circumstances, with respect to information not within the knowledge of the attester, or for other good cause.”.

(3) The amendments made by this subsection shall apply as though included in the enactment of the Immigration Nursing Relief Act of 1989.

TITLE II—NONIMMIGRANTS

Subtitle A—General and Permanent Provisions

SEC. 201. REVISION AND EXTENSION OF THE VISA WAIVER PILOT PROGRAM FOR FOREIGN TOURISTS (B NONIMMIGRANTS).

(a) IN GENERAL.—Section 217 (8 U.S.C. 1187) is amended—

(1) in subsection (a)(2), by inserting “, and presents a passport issued by,” after “is a national of”;

(2) in subsection (a)(3)—

(A) by striking “ENTRY CONTROL AND WAIVER FORMS” and inserting “IMMIGRATION FORMS”, and

(B) by striking all that follows “such admission” and inserting “completes such immigration form as the Attorney General shall establish.”;

(3) by striking paragraph (4) of subsection (a) and inserting the following:

“(4) ENTRY BY SEA OR AIR.—If arriving by sea or air, the alien arrives at the port of entry into the United States on a carrier which has entered into an agreement with the Service to guarantee transport of the alien out of the United States if the alien is found inadmissible or deportable by an immigration officer.”;

(4) by adding at the end of subsection (a) the following new paragraph:

“(7) ROUND-TRIP TICKET.—The alien is in possession of a round-trip transportation ticket (unless this requirement is waived by the Attorney General under regulations).”;

(5) in subsection (b)—

(A) by striking the heading and paragraphs (1) through (3), and

(B) by redesignating paragraph (4) (and subparagraphs (A) and (B) thereof) as subsection (b) (and paragraphs (1) and (2) thereof, respectively), and moving the indentation of such redesignated subsection and paragraphs 2 ems to the left;

(6) in subsection (c)—

(A) in paragraph (1)—

- (i) by striking "UP TO 8 COUNTRIES" in the heading and inserting "IN GENERAL", and
 - (ii) by striking all that follows "may designate" and inserting "any country as a pilot program country if it meets the requirements of paragraph (2)."; and
 - (B) in paragraph (2)—
 - (i) by striking "INITIAL QUALIFICATIONS" in the heading and inserting "QUALIFICATIONS",
 - (ii) by striking "For the initial period described in paragraph (4), a country" and inserting "A country", and
 - (iii) by adding at the end the following new subparagraphs:
 - "(C) MACHINE READABLE PASSPORT PROGRAM.—The government of the country certifies that it has or is in the process of developing a program to issue machine-readable passports to its citizens.
 - "(D) LAW ENFORCEMENT INTERESTS.—The Attorney General determines that the United States law enforcement interests would not be compromised by the designation of the country.";
 - (7) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:
 - "(d) AUTHORITY.—Notwithstanding any other provision of this section, the Attorney General and the Secretary of State, acting jointly, may for any reason (including national security) refrain from waiving the visa requirement in respect to nationals of any country which may otherwise qualify for designation or may, at any time, rescind any waiver or designation previously granted under this section.";
 - (8) in subsection (e)(1), as so redesignated—
 - (A) by striking "and" at the end of subparagraph (A),
 - (B) by striking the period at the end of subparagraph (B) and inserting ", and", and
 - (C) by adding at the end the following new subparagraph:
 - "(C) to be subject to the imposition of fines resulting from the transporting into the United States of a national of a designated country without a passport pursuant to regulations promulgated by the Attorney General.";
 - (9) in subsection (f), as so redesignated, by striking all that follows "the period beginning" and inserting "on October 1, 1988, and ending on September 30, 1994.".
- (b) PENALTY FOR TRANSPORT OF ALIENS WITHOUT VALID VISAS.—Section 273 (8 U.S.C. 1323) is amended—
- (1) in subsection (a), by inserting "a valid passport and" before "an unexpired visa", and
 - (2) in subsection (c), by inserting "valid passport or" before "visa was required".
- (c) REPORT.—By not later than January 1, 1992, the Attorney General, in consultation with the Secretary of State, shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report on the operation of the automated data arrival and departure control system for foreign visitors and on admission refusals and overstays for such visitors who have entered under the visa waiver program.
- (d) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the date of the enactment of this Act.

SEC. 202. DENIAL OF CREWMEMBER STATUS IN THE CASE OF CERTAIN LABOR DISPUTES (D NONIMMIGRANTS).

- (a) IN GENERAL.—[Omitted; added subsection (f) at the end of section 214.]
- (b) CONFORMING AMENDMENT.—Section 212(d)(5)(A) (8 U.S.C. 1182(d)(5)(A)) is amended by inserting "or in section 214(f)" after "except as provided in subparagraph (B)".
- (c) EFFECTIVE DATE.—The amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

SEC. 203. LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEN (D NONIMMIGRANTS).

- (a) LIMITATION ON ALIENS.—
 - (1) IN GENERAL.—[Omitted; added section 258 to the INA]
 - (2) NO APPLICATION TO CITIZENS OR NATIONALS OF THE UNITED STATES.—This section does not affect the performance of longshore work in the United States by citizens or nationals of the United States.
 - (3) CLERICAL AMENDMENT.—[Omitted; conforming amendment to table of contents.]

(b) **PENALTIES.**—Section 251(d) (8 U.S.C. 1281(d)) is amended—

(1) in the first sentence by striking “pay to” and all that follows through “\$10” and inserting “pay to the Commissioner the sum of \$200”; and

(2) by inserting after the first sentence the following: “In the case that any owner, agent, consignee, master, or commanding officer of a vessel shall secure services of an alien crewman described in section 101(a)(15)(D)(i) to perform longshore work not included in the normal operation and service on board the vessel under section 258, the owner, agent, charterer, master, or commanding officer shall pay to the Commissioner the sum of \$5,000, and such fine shall be a lien against the vessel.”.

(c) **CONFORMING AMENDMENTS.**—Section 101(a)(15)(D)(i) (8 U.S.C. 1101(a)(15)(D)(i)) is amended—

(1) by striking “any capacity” and inserting “a capacity”, and

(2) by inserting “, as defined in section 258(a)” after “on board a vessel”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to services performed on or after 180 days after the date of the enactment of this Act.

SEC. 204. TREATY TRADERS (E NONIMMIGRANTS).

(a) **INCLUDING TRADE IN SERVICES AND TECHNOLOGY.**—Section 101(a)(15)(E)(i) (8 U.S.C. 1101(a)(15)(E)(i)) is amended by inserting “, including trade in services or trade in technology” after “substantial trade”.

(b) **APPLICATION OF TREATY TRADER FOR CERTAIN FOREIGN STATES.**—Each of the following foreign states shall be considered, for purposes of section 101(a)(15)(E) of the Immigration and Nationality Act, to be a foreign state described in such section if the foreign state extends reciprocal nonimmigrant treatment to nationals of the United States:

(1) The largest foreign state in each region (as defined in section 203(c)(1) of the Immigration and Nationality Act) which (A) has 1 or more dependent areas (as determined for purposes of section 202 of such Act) and (B) does not have a treaty of commerce and navigation with the United States.

(2) The foreign state which (A) was identified as an adversely affected foreign state for purposes of section 314 of the Immigration Reform and Control Act of 1986 and (B) does not have a treaty of commerce and navigation with the United States, but (C) had such a treaty with the United States before 1925.

(c) **SUBSTANTIAL DEFINED.**—[Omitted; added paragraph (45) to section 101(a).]

SEC. 205. TEMPORARY WORKERS AND TRAINEES (H NONIMMIGRANTS).

(a) **LIMITATION ON NUMBERS.**—[Omitted; added subsection (g) at the end of section 214.]

(b) **CONSTRUCTION RESPECTING INTENT WITH RESPECT TO ABANDONMENT OF FOREIGN RESIDENCE.**—Section 214, as amended by section 202(a) and by subsection (a), is further amended—

(1) in subsection (b), by inserting “(other than a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15))” after “Every alien”, and

(2) by adding at the end the following new subsection:

“(h) The fact that an alien is the beneficiary of an application for a preference status filed under section 204 or has otherwise sought permanent residence in the United States shall not constitute evidence of an intention to abandon a foreign residence for purposes of obtaining a visa as a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15) or otherwise obtaining or maintaining the status of a nonimmigrant described in such subparagraph, if the alien had obtained a change of status under section 248 to a classification as such a nonimmigrant before the alien’s most recent departure from the United States.”.

(c) **REVISION OF H-1B CATEGORY.**—

(1) **IN GENERAL.**—Subclause (b) of section 101(a)(15)(H)(i) (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking “who is of distinguished” and all that follows through “such institution or agency” and inserting the following: “who is coming temporarily to the United States to perform services (other than services described in subclause (a) during the period in which such subclause applies and other than services described in subclause (ii)(a) or in subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1), who meets the requirements for the occupation specified in section 214(i)(2), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that the intending employer has filed with, and had approved by, the Secretary an application under section 212(n)(1)”.

(2) **SPECIALTY OCCUPATION DEFINED.**—[Omitted; added subsection (i) at the end of section 214.]

(3) LABOR CONDITION APPLICATION FOR H-1B.—[Omitted; added a subsection (n) at the end of section 212.]

(d) LIMITATION ON TRAINEES.—Section 101(a)(15)(H)(iii) (8 U.S.C. 1101(a)(15)(H)(iii)) is amended by inserting before the semicolon at the end the following: “, in a training program that is not designed primarily to provide productive employment”.

(e) REMOVAL OF FOREIGN RESIDENCE REQUIREMENT FOR H-1 NONIMMIGRANTS.—Section 101(a)(15)(H) (8 U.S.C. 1101(a)(15)(H)) is amended—

(1) by striking “having a residence in a foreign country which he has no intention of abandoning”;

(2) in clause (ii), by striking “who is coming temporarily to the United States (a)” and inserting “(a) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States”;

(3) in clause (ii)(b), by inserting “having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States” immediately after “(b)”;

(4) in clause (iii), by inserting “having a residence in a foreign country which he has no intention of abandoning” after “(iii)”.

SEC. 206. INTRA-COMPANY TRANSFEREES (L NONIMMIGRANTS).

(a) CLARIFICATION OF TREATMENT OF CERTAIN INTERNATIONAL ACCOUNTING FIRMS.—In applying sections 101(a)(15)(L) and 203(b)(1)(C) of the Immigration and Nationality Act and section 124(a)(3)(A) of this Act, in the case of a partnership that is organized in the United States to provide accounting services and that markets its accounting services under an internationally recognized name under an agreement with a worldwide coordinating organization that is owned and controlled by the member accounting firms, a partnership (or similar organization) that is organized outside the United States to provide accounting services shall be considered to be an affiliate of the United States partnership if it markets its accounting services under the same internationally recognized name under the agreement with the worldwide coordinating organization of which the United States partnership is also a member.

(b) USE OF BLANKET PETITIONS; DEADLINES FOR PROCESSING; PERIODS OF AUTHORIZED STAY; CONSTRUCTION.—Section 214(c) (8 U.S.C. 1184(c)) is amended—

(1) by inserting “(1)” after “(c)”, and

(2) [Omitted; added paragraph (2) at the end of section 214(c).]

(c) PERIOD OF PRIOR EMPLOYMENT WITH COMPANY.—Section 101(a)(15)(L) (8 U.S.C. 1101(a)(15)(L)) is amended by striking “immediately preceding” and inserting “within 3 years preceding”.

SEC. 207. NEW CLASSIFICATION FOR ALIENS WITH EXTRAORDINARY ABILITY, ACCOMPANYING ALIENS, AND ATHLETES AND ENTERTAINERS (O & P NONIMMIGRANTS).

(a) IN GENERAL.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended—

(1) by striking “or” at the end of subparagraph (M),

(2) by striking the period at the end of subparagraph (N) and inserting a semicolon, and

(3) [Omitted; added subparagraph (O) and (P) at the end of section 101(a)(15).]

(b) PERIODS OF ADMISSION, ETC.—Section 214 (8 U.S.C. 1184) is amended—

(1) in subsection (a), by inserting “(1)” after “(a)” and [Omitted; added paragraph (2) at the end of section 214(a).]

(2) in subsection (c), as amended by section 206(b)—

(A) in paragraph (1), by striking “or (L)” and inserting “, (L), (O), or (P)(i)”, and

(B) [Omitted; added paragraphs (3)—(6) at the end of section 214(c).]

(c) WORK AUTHORIZATION DURING PENDING LABOR DISPUTES.—(1) In the case of an alien admitted as a nonimmigrant (other than under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act and who is authorized to be employed in an occupation, if nonimmigrants constitute a majority of the members of the bargaining unit in the occupation, during the period of any strike or lockout in the occupation with the employer which strike or lockout is pending on the date of the enactment of this Act the alien—

(A) continues to be authorized to be employed in the occupation for that employer, and

(B) is authorized to be employed in any occupation for any other employer so long as such strike or lockout continues with respect to that occupation and employer.

(2) In the case of an alien admitted as a nonimmigrant (other than under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act) and who is authorized to be employed in an occupation, if nonimmigrants do not constitute a majority of the members of the bargaining unit in the occupation, during the period of any strike or lockout in the occupation with the employer which strike or lockout is pending on the date of the enactment of this Act the alien—

(A) is not authorized to be employed in the occupation for that employer, and

(B) is authorized to be employed in any occupation for any other employer so long as there is no strike or lockout with respect to that occupation and employer.

(3) With respect to a nonimmigrant described in paragraph (1) or (2) who does not perform unauthorized employment, any limit on the period of authorized stay shall be extended by the period of the strike or lockout, except that any such extension may not continue beyond the maximum authorized period of stay.

(4) The provisions of this subsection shall take effect on the date of the enactment of this Act.

SEC. 208. NEW CLASSIFICATION FOR INTERNATIONAL CULTURAL EXCHANGE PROGRAMS (Q NONIMMIGRANTS).

Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by section 207(a), is further amended—

(1) by striking “or” at the end of subparagraph (O),

(2) by striking the period at the end of subparagraph (P) and inserting “; or”, and

(3) [Omitted; added subparagraph (Q) at the end of section 101(a)(15).]

SEC. 209. NEW CLASSIFICATION FOR ALIENS IN RELIGIOUS OCCUPATIONS (R NONIMMIGRANTS).

(a) **IN GENERAL.**—Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by sections 207(a) and 208, is further amended—

(1) by striking “or” at the end of subparagraph (P),

(2) by striking the period at the end of subparagraph (Q) and inserting “; or”, and

(3) [Omitted; added subparagraph (R) at the end of section 101(a)(15).]

(b) **REFERENCE TO REVISION OF SPECIAL IMMIGRANT PROVISIONS.**—For provision providing special immigrant status for certain aliens in religious occupations, see section 151.

Subtitle B—Temporary or Limited Provisions

SEC. 221. OFF-CAMPUS WORK AUTHORIZATION FOR STUDENTS (F NONIMMIGRANTS).

(a) **5-YEAR^{11a} Provision.**—With respect to work authorization for aliens admitted as nonimmigrant students described in subparagraph (F) of section 101(a)(15) of the Immigration and Nationality Act during the 5-year period beginning October 1, 1991, the Attorney General shall grant such an alien work authorization to be employed off-campus¹² if—

(1) the alien has completed 1 academic year as such a nonimmigrant and is maintaining good academic standing at the educational institution,

(2) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer (A) has recruited for at least 60 days for the position and (B) will provide for payment to the alien and to other similarly situated workers at a rate equal to not less than the actual wage level for the occupation at the place of employment or, if greater, the prevailing wage level for the occupation in the area of employment, and

(3) the alien will not be employed more than 20 hours each week during the academic term (but may be employed on a full-time basis during vacation periods and between academic terms).

^{11a} § 215(a) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4315, Oct. 25, 1994), extended the period under this subsection from 3 to 5 years and the deadline under subsection (b) from 1994 to 1996.

¹² § 303(b)(1) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1748) struck the phrase “in a position unrelated to the alien’s field of study and” and inserted “academic” in paragraph (1), effective as if included in the enactment of the Immigration Act of 1990.

If the Secretary of Labor determines that an employer has provided an attestation under paragraph (2) that is materially false or has failed to pay wages in accordance with the attestation, after notice and opportunity for a hearing, the employer shall be disqualified from employing an alien student under this subsection.

(b) **REPORT TO CONGRESS.**—Not later than April 1, 1996, the Commissioner of Immigration and Naturalization and the Secretary of Labor shall prepare and submit to the Congress a report on—

(1) whether the program of work authorization under subsection (a) should be extended, and

(2) the impact of such program on prevailing wages of workers.

SEC. 222. ADMISSION OF NONIMMIGRANTS FOR COOPERATIVE RESEARCH, DEVELOPMENT, AND COPRODUCTION PROJECTS.

(a) **IN GENERAL.**—Subject to subsection (b), the Attorney General shall provide for nonimmigrant status in the case of an alien who—

(1) has a residence in a foreign country which the alien has no intention of abandoning, and

(2) is coming to the United States, upon a basis of reciprocity, to perform services of an exceptional nature requiring such merit and ability relating to a cooperative research and development project or a coproduction project provided under a government-to-government agreement administered by the Secretary of Defense, but not to exceed a period of more than 10 years, or who is the spouse or minor child of such an alien if accompanying or following to join the alien.

(b) **NUMERICAL LIMITATION.**—The number of aliens who may be admitted as (or otherwise be provided the status of) a nonimmigrant under this section at any time may not exceed 100.

SEC. 223. ESTABLISHMENT OF SPECIAL EDUCATION EXCHANGE VISITOR PROGRAM.

(a) **IN GENERAL.**—Subject to subsection (b), the Attorney General shall provide for nonimmigrant status in the case of an alien who—

(1) has a residence in a foreign country which the alien has no intention of abandoning, and

(2) is coming temporarily to the United States (for a period not to exceed 18 months) as a participant in a special education training program which provides for practical training and experience in the education of children with physical, mental, or emotional disabilities, or who is the spouse or minor child of such an alien if accompanying or following to join the alien.

(b) **NUMERICAL LIMITATION.**—The number of aliens who may be admitted as (or otherwise be provided the status of) a nonimmigrant under this section in any fiscal year may not exceed 50.

Subtitle C—Effective Dates

SEC. 231. EFFECTIVE DATES.

Except as otherwise provided in this title, this title, and the amendments made by this title, shall take effect on October 1, 1991, except that sections 222 and 223 shall take effect on the date of the enactment of this Act.

TITLE III—FAMILY UNITY AND TEMPORARY PROTECTED STATUS

SEC. 301. FAMILY UNITY.

(a) **TEMPORARY STAY OF DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN ELIGIBLE IMMIGRANTS.**—The Attorney General shall provide that in the case of an alien who is an eligible immigrant (as defined in subsection (b)(1)) as of May 5, 1988 (^{12a}in the case of a relationship to a legalized alien described in subsection (b)(2)(B) or (b)(2)(C)) or as of December 1, 1988 (in the case of a relationship to a legalized alien described in subsection (b)(2)(A)), who has entered the United States before

^{12a} The phrase beginning “(in the case” and ending with “(b)(2)(A))” was inserted by § 206(a) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103–416, 108 Stat. 4311, Oct. 25, 1994), effective as of October 1, 1991, under § 206(b) of that Act.

such date, who resided in the United States on such date, and who is not lawfully admitted for permanent residence, the alien—

(1) may not be deported or otherwise required to depart from the United States on a ground specified in paragraph (1)(A), (1)(B), (1)(C), (3)(A), of section 241(a) of the Immigration and Nationality Act (other than so much of section 241(a)(1)(A) of such Act as relates to a ground of exclusion described in paragraph (2) or (3) of section 212(a) of such Act),¹³ and

(2) shall be granted authorization to engage in employment in the United States and be provided an “employment authorized” endorsement or other appropriate work permit.

(b) **ELIGIBLE IMMIGRANT AND LEGALIZED ALIEN DEFINED.**—In this section:

(1) The term “eligible immigrant” means a qualified immigrant who is the spouse or unmarried child of a legalized alien.

(2) The term “legalized alien” means an alien lawfully admitted for temporary or permanent residence who was provided—

(A) temporary or permanent residence status under section 210 of the Immigration and Nationality Act,

(B) temporary or permanent residence status under section 245A of the Immigration and Nationality Act, or

(C) permanent residence status under section 202 of the Immigration Reform and Control Act of 1986.

(c) **APPLICATION OF DEFINITIONS.**—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section.

(d) **TEMPORARY DISQUALIFICATION FROM CERTAIN PUBLIC WELFARE ASSISTANCE.**—Aliens provided the benefits of this section by virtue of their relation to a legalized alien described in subsection (b)(2)(A) or (b)(2)(B) shall be ineligible for public welfare assistance in the same manner and for the same period as the legalized alien is ineligible for such assistance under section 245A(h) or 210(f), respectively, of the Immigration and Nationality Act.

(e) **EXCEPTION FOR CERTAIN ALIENS.**—An alien is not eligible for the benefits of this section if the Attorney General finds that—

(1) the alien has been convicted of a felony or 3 or more misdemeanors in the United States, or

(2) the alien is described in section 243(h)(2) of the Immigration and Nationality Act.

(f) **CONSTRUCTION.**—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to obtain benefits under this section.¹⁴

(g) **EFFECTIVE DATE.**—This section shall take effect on October 1, 1991; except that the delay in effectiveness of this section shall not be construed as reflecting a Congressional belief that the existing family fairness program should be modified in any way before such date.

SEC. 302. TEMPORARY PROTECTED STATUS.

(a) **IN GENERAL.**—[Omitted; inserted section 244A.]

(b) **CLERICAL AMENDMENT.**—[Omitted; conforming amendment to table of contents.]

(c) **NO EFFECT ON EXECUTIVE ORDER 12711.**—Notwithstanding subsection (g) of section 244A of the Immigration and Nationality Act (inserted by the amendment made by subsection (a)), such section shall not supersede or affect Executive Order 12711 (April 11, 1990, relating to policy implementation with respect to nationals of the People's Republic of China).

SEC. 303. SPECIAL TEMPORARY PROTECTED STATUS FOR SALVADORANS.

(a) **DESIGNATION.**—

¹³ § 603(a)(23) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5084) struck “on a ground specified in paragraph (1), (2), (5), (9), or (12) of section 241(a) of the Immigration and Nationality Act (other than so much of section 241(a)(1) of such Act as relates to a ground of exclusion described in paragraph (9), (10), (23), (27), (28), (29), or (33) of section 212(a) of such Act)” and inserted “on a ground specified in paragraph (1)(A), (1)(B), (1)(C), (3)(A), of section 241(a) of the Immigration and Nationality Act (other than so much of section 241(a)(1)(A) of such Act as relates to a ground of exclusion described in paragraph (2) or (3) of section 212(a) of such Act)”.

¹⁴ § 304(c) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1749), shown in footnote 171 to section 244A(f)(3) of the INA, provides special rules for the inspection and readmission of aliens who are provided benefits under this section and who are authorized to travel abroad temporarily.

(1) **IN GENERAL.**—El Salvador is hereby designated under section 244A(b) of the Immigration and Nationality Act, subject to the provisions of this section.

(2) **PERIOD OF DESIGNATION.**—Such designation shall take effect on the date of the enactment of this section and shall remain in effect until the end of the 18-month period beginning January 1, 1991.

(b) **ALIENS ELIGIBLE.**—

(1) **IN GENERAL.**—In applying section 244A of the Immigration and Nationality Act pursuant to the designation under this section, subject to section 244A(c)(3) of such Act, an alien who is a national of El Salvador meets the requirements of section 244A(c)(1) of such Act only if—

(A) the alien has been continuously physically present in the United States since September 19, 1990;

(B) the alien is admissible as an immigrant, except as otherwise provided under section 244A(c)(2)(A) of such Act, and is not ineligible for temporary protected status under section 244A(c)(2)(B) of such Act; and

(C) in a manner which the Attorney General shall establish, the alien registers for temporary protected status under this section during the registration period beginning January 1, 1991, and ending October 31, 1991.

(2) **REGISTRATION FEE.**—The Attorney General shall require payment of a reasonable fee as a condition of registering an alien under paragraph (1)(C) (including providing an alien with an “employment authorized” endorsement or other appropriate work permit under this section). The amount of the fee shall be sufficient to cover the costs of administration of this section. Notwithstanding section 3302 of title 31, United States Code, all such registration fees collected shall be credited to the appropriation to be used in carrying out this section.

(c) **APPLICATION OF CERTAIN PROVISIONS.**—

(1) **IN GENERAL.**—Except as provided in this subsection, the provisions of section 244A of the Immigration and Nationality Act (including subsection (h) thereof) shall apply to El Salvador (and aliens provided temporary protected status) under this section in the same manner as they apply to a foreign state designated (and aliens provided temporary protected status) under such section.

(2) **PROVISIONS NOT APPLICABLE.**—Subsections (b)(1), (b)(2), (b)(3), (c)(1), (c)(4), (d)(3), and (i) of such section 244A shall not apply under this section.

(3) **6-MONTH PERIOD OF REGISTRATION AND WORK AUTHORIZATION.**—Notwithstanding section 244A(a)(2) of the Immigration and Nationality Act, the work authorization provided under this section shall be effective for periods of 6 months. In applying section 244A(c)(3)(C) of such Act under this section, “semi-annually, at the end of each 6-month period” shall be substituted for “annually, at the end of each 12-month period” and, notwithstanding section 244A(d)(2) of such Act, the period of validity of documentation under this section shall be 6 months.

(4) **REENTRY PERMITTED AFTER DEPARTURE FOR EMERGENCY CIRCUMSTANCES.**—In applying section 244A(f)(3) of the Immigration and Nationality Act under this section, the Attorney General shall provide for advance parole in the case of an alien provided special temporary protected status under this section if the alien establishes to the satisfaction of the Attorney General that emergency and extenuating circumstances beyond the control of the alien requires the alien to depart for a brief, temporary trip abroad.

(d) **ENFORCEMENT OF REQUIREMENT TO DEPART AT TIME OF TERMINATION OF DESIGNATION.**—

(1) **SHOW CAUSE ORDER AT TIME OF FINAL REGISTRATION.**—At the registration occurring under this section closest to the date of termination of the designation of El Salvador under subsection (a), the Immigration and Naturalization Service shall serve on the alien granted temporary protected status an order to show cause that establishes a date for deportation proceedings which is after the date of such termination of designation. If El Salvador is subsequently designated under section 244A(b) of the Immigration and Nationality Act, the Service shall cancel such orders.

(2) **SANCTION FOR FAILURE TO APPEAR.**—If an alien is provided an order to show cause under paragraph (1) and fails to appear at such proceedings, except for exceptional circumstances, the alien may be deported in absentia under section 242B of the Immigration and Nationality Act (inserted by section 545(a) of this Act) and certain discretionary forms of relief are no longer available to the alien pursuant to such section.

TITLE IV—NATURALIZATION

SEC. 401. ADMINISTRATIVE NATURALIZATION.

(a) NATURALIZATION AUTHORITY.—[Omitted; amended section 310 in its entirety.]

(b) FILING OF APPLICATIONS.—Section 334(a) (8 U.S.C. 1445(a)) is amended by adding at the end the following new sentence: "In the case of an applicant subject to a requirement of continuous residence under section 316(a) or 319(a), the application for naturalization may be filed up to 3 months before the date the applicant would first otherwise meet such continuous residence requirement."

(c) NOTIFICATION.—Section 335(b) (8 U.S.C. 1446(b)) is amended by adding at the end the following new sentence: "Any such employee shall, at the examination, inform the petitioner of the remedies available to the petitioner under section 336."

SEC. 402. SUBSTITUTING 3 MONTHS RESIDENCE IN INS DISTRICT OR STATE FOR 6 MONTHS RESIDENCE IN A STATE.

Section 316(a)(1) (8 U.S.C. 1427(a)(1)) is amended by striking "and who has resided within the State in which the petitioner filed the petition for at least six months" and inserting "and who has resided within the State or within the district of the Service in the United States in which the applicant filed the application for at least three months".

SEC. 403. WAIVER OF ENGLISH LANGUAGE REQUIREMENT FOR NATURALIZATION.

Section 312(1) (8 U.S.C. 1423(1)) is amended by striking "is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence" and inserting "either (A) is over 50 years of age and has been living in the United States for periods totaling at least 20 years subsequent to a lawful admission for permanent residence, or (B) is over 55 years of age and has been living in the United States for periods totaling at least 15 years subsequent to a lawful admission for permanent residence".

SEC. 404. TREATMENT OF SERVICE IN ARMED FORCES OF A FOREIGN COUNTRY.

Section 315 (8 U.S.C. 1425) is amended—

(1) in subsection (a), by inserting "but subject to subsection (c)" after "section 405(b)", and

(2) by adding at the end the following new subsection:

"(c) An alien shall not be ineligible for citizenship under this section or otherwise because of an exemption from training or service in the Armed Forces of the United States pursuant to the exercise of rights under a treaty, if before the time of the exercise of such rights the alien served in the Armed Forces of a foreign country of which the alien was a national."

SEC. 405. NATURALIZATION OF NATIVES OF THE PHILIPPINES THROUGH CERTAIN ACTIVE-DUTY SERVICE DURING WORLD WAR II.^{15a}

(a) WAIVER OF CERTAIN REQUIREMENTS.—(1) Clauses (1) and (2) of section 329(a) of the Immigration and Nationality Act (8 U.S.C. 1440(a)) shall not apply to the naturalization of any person—

^{15a} Section 113 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (P.L. 102-395, Oct. 6, 1992, 106 Stat. 1844) provides as follows:

SEC. 113. (a) WAIVER.—(1) For purposes of the naturalization of natives of the Philippines under section 405 of the Immigration Act of 1990, notwithstanding any other provision of law—

(A) the processing of applications for naturalization, including necessary interviews, shall be conducted in the Philippines by employees of the Immigration and Naturalization Service designated pursuant to section 335(b) of the Immigration and Nationality Act of 1952, as amended; and

(B) oaths of allegiance shall be taken in the Philippines by employees of the Immigration and Naturalization Service designated pursuant to section 335(b) of the Immigration and Nationality Act of 1952, as amended.

(2) Notwithstanding subsection (a)(1), applications for naturalization including necessary interviews may continue to be processed, and oaths of allegiance may continue to be taken in the United States.

(3) The Attorney General shall prescribe such regulations as may be necessary to carry out this subsection.

(A) who was born in the Philippines and who was residing in the Philippines before the service described in subparagraph (B);

(B) who served honorably—

(i) in an active-duty status under the command of the United States Armed Forces in the Far East, or

(ii) within the Philippine Army, the Philippine Scouts, or recognized guerrilla units, at any time during the period beginning September 1, 1939, and ending December 31, 1946;

(C) who is otherwise eligible for naturalization under section 329 of such Act; and

(D) who applies for naturalization during the 2-year period beginning on¹⁶ the date of the enactment of this Act.

(2) Subject to subsection (c), in applying section 329 of the Immigration and Nationality Act, service described in paragraph (1)(B) is considered to be honorable service in an active-duty status in the military, air, or naval forces of the United States.

[Subsection (b) was stricken by § 104(d) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4308, Oct. 25, 1994).]

(c) STATUTORY CONSTRUCTION.—The enactment of this section shall not be construed as affecting the rights, privileges, or benefits of a person described in subsection (a)(1) under any provision of law (other than the Immigration and Nationality Act) by reason of the service of such person or the service of any other person under the command of the United States Armed Forces.

SEC. 406. PUBLIC EDUCATION REGARDING NATURALIZATION BENEFITS.

[Omitted; added subsection (h) at the end of section 332.]

SEC. 407. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS TO SECTION 310 REVISION.—(1) [Table of contents amendment omitted.]

(2) Section 101(a)(36) (8 U.S.C. 1101(a)(36)) is amended by striking “(except as used in section 310(a) of title III)”.

(b) CONFORMING AMENDMENTS TO CHANGE IN RESIDENCE REQUIREMENT.—(1) Section 319 (8 U.S.C. 1430) is amended—

(A) in subsection (a), by striking “has resided within the State in which he filed his petition for at least six months” and inserting “has resided within the State or the district of the Service in the United States in which the applicant filed his application for at least three months”;

(B) in subsections (b) and (d), by striking “within the jurisdiction of the naturalization court” and inserting “within a State or a district of the Service in the United States”, and

(C) in subsection (c), is amended by striking “within the jurisdiction of the court” and inserting “district of the Service in the United States”.

(2) Section 322(c) (8 U.S.C. 1433(c)) is amended by striking “within the jurisdiction of the naturalization court” and inserting “within a State or a district of the Service in the United States”.

(3) Section 324(a)(1) (8 U.S.C. 1435(a)(1)) is amended by inserting “or district of the Service in the United States” after “State”.

(4) Section 328 (8 U.S.C. 1439) is amended—

(A) in subsection (a)—

(i) by inserting “or district of the Service in the United States” after “State”, and

(ii) by striking “for at least six months” and inserting “for at least three months”;

(b) TREATMENT OF OATHS OF ALLEGIANCE.—Records of oaths of allegiance taken in accordance with subsection (a)(1)(B) shall be entered in the permanent records of the Attorney General.

(c) EFFECTIVE DATE.—The provisions of this section shall become effective 120 days from the date of enactment of this Act.

(d) EXTENSION OF APPLICATION PERIOD.—The provisions of this section shall apply to natives of the Philippines who applied for naturalization under section 405 of the Immigration Act of 1990 and who apply for naturalization within 2 years after the effective date of this section.

(e) TERMINATION DATE.—This section shall cease to be effective 3 years after its effective date.

¹⁶Should probably have been a reference to the 2-year period beginning on May 1, 1991; see effective date in § 408(f).

- (B) in subsection (b)(1), by striking "within the jurisdiction of the court" and inserting "within a State or district of the Service in the United States"; and
- (C) in subsection (c), by inserting "or district of the Service in the United States" after "State".
- (5) Section 329(b) (8 U.S.C. 1440(b)) is amended—
- (A) in paragraph (2)—
- (i) by inserting "or district of the Service in the United States" after "State", and
- (ii) by inserting "and" at the end of paragraph (2);
- (B) by striking paragraph (3); and
- (C) by redesignating paragraph (4) as paragraph (3).
- (c) SUBSTITUTION OF APPLICATION FOR NATURALIZATION FOR PETITION FOR NATURALIZATION.—The text of the following provisions is amended by striking "a petition", "petition", "petitions", "a petitioner", "petitioner", "petitioner's", "petitioning", and "petitioned" each place it appears and inserting "an application", "application", "applications" or "applies" (as the case may be), "an applicant", "applicant", "applicant's", "applying", and "applied", respectively:
- (1) Section 313(c) (8 U.S.C. 1424(c)).
 - (2) Section 316 (8 U.S.C. 1427).
 - (3) Section 317 (8 U.S.C. 1428).
 - (4) Section 318 (8 U.S.C. 1429).
 - (5) Sections 319 (a) and (c) (8 U.S.C. 1430 (a), (c)).
 - (6) Section 322 (8 U.S.C. 1433).
 - (7) Section 324 (8 U.S.C. 324).
 - (8) Section 325 (8 U.S.C. 1436).
 - (9) Section 326 (8 U.S.C. 1437).
 - (10) Section 328 (8 U.S.C. 1439).
 - (11) Section 329 (8 U.S.C. 1440).
 - (12) Section 330 (8 U.S.C. 1441).
 - (13) Section 331 (8 U.S.C. 1442), other than subsection (d).
 - (14) Section 333(a) (8 U.S.C. 1444(a)).
 - (15) Section 334 (8 U.S.C. 1445).
 - (16) Section 335 (8 U.S.C. 1446).
 - (17) Section 336 (8 U.S.C. 1447).
 - (18) Section 337 (8 U.S.C. 1448).
 - (19) Section 338 (8 U.S.C. 1449).
 - (20) Section 344 (8 U.S.C. 1455).
 - (21) Section 1429 of title 18, United States Code.
- (d) SUBSTITUTING APPROPRIATE ADMINISTRATIVE AUTHORITY FOR NATURALIZATION COURT.—(1)¹⁷ Section 316 (8 U.S.C. 1427) is amended—
- (A) in subsection (b), by striking "the court" each place it appears and inserting "the Attorney General",
- (B) in subsection (b), by striking "date of final hearing" and inserting "date of any hearing under section 336(a)",
- (C) in subsection (e), by striking "the court" and inserting "the Attorney General",
- (D) in subsection (g)(1), by striking "within the jurisdiction of the court" and inserting "within a particular State or district of the Service in the United States", and
- (E) in subsection (g)(2), by amending the first sentence to read as follows: "An applicant for naturalization under this subsection may be administered the oath of allegiance under section 337(a) by any district court of the United States, without regard to the residence of the applicant."
- (2) The second sentence of section 317 (8 U.S.C. 1428) is amended by striking "and the naturalization court".
- (3) The third sentence of section 318 (8 U.S.C. 1429) is amended—
- (A) by striking "finally heard by a naturalization court" and inserting "considered by the Attorney General", and
- (B) by striking "upon the naturalization court" and inserting "upon the Attorney General".
- (4) Section 319 (8 U.S.C. 1430) is amended—
- (A) in subsection (b)(3), by striking "before the naturalization court" and inserting "before the Attorney General", and

¹⁷Note that additional technical amendments were made by § 305(m) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1750), effective as if included in section 407(d) of the Immigration Act of 1990.

- (B) in subsection (c)(5), by striking "naturalization court" and inserting "Attorney General".
- (5) Section 322(c)(2)(C) (8 U.S.C. 1433(c)(2)(C)) is amended by striking "naturalization court" the first place it appears and inserting "Attorney General".
- (6) Section 324 (8 U.S.C. 1435) is amended—
- (A) in subsection (a)—
 - (i) by inserting "and" at the end of paragraph (1),
 - (ii) by striking the semicolon at the end of paragraph (2) and inserting a period, and
 - (iii) by striking paragraphs (3) and (4);
 - (B) in subsection (b), by striking "naturalization court" and inserting "Attorney General"; and
 - (C) in subsection (c)—
 - (i) in paragraph (2), by striking "the judge or clerk of a naturalization court" and inserting "the Attorney General or the judge or clerk of a court described in section 310(b)", and
 - (ii) in paragraph (3), by striking "or naturalization court" each place it appears and inserting "court, or the Attorney General".
- (7) Section 327(a) (8 U.S.C. 1438(a)) is amended—
- (A) by striking "any naturalization court specified in section 310(a) of this title" and inserting "the Attorney General or before a court described in section 310(b)"; and
 - (B) by inserting "and by the Attorney General to the Secretary of State" after "Department of Justice".
- (8) Subsections (b)(3) and (c) of section 328 (8 U.S.C. 1439) are amended by striking "the final hearing" and inserting "any hearing".
- (9) Section 331(b) (8 U.S.C. 1442(b)) is amended by striking "called for a hearing" and all that follows through "to be continued" and inserting "considered or heard except after 90 days' notice to the Attorney General to be considered at the examination or hearing, and the Attorney General's objection to such consideration shall cause the application to be continued".
- (10) Section 332(a) (8 U.S.C. 1443(a)) is amended—
- (A) by striking "for the purpose" and all that follows through "naturalization courts" in the first sentence, and
 - (B) by striking the second sentence.
- (11) Section 333(a) (8 U.S.C. 1444(a)) is amended by striking "clerk of the court" and inserting "Attorney General".
- (12) Section 334 (8 U.S.C. 1445) is amended—
- (A) by amending the heading to read as follows:

"APPLICATION FOR NATURALIZATION; DECLARATION OF INTENTION";
 - (B) in subsection (a)—
 - (i) by striking "in the office of the clerk of a naturalization court" and inserting "with the Attorney General", and
 - (ii) by striking "upon the hearing of such petition" and inserting "under this title";
 - (C) in subsection (b)—
 - (i) by striking "(1)",
 - (ii) by striking "and (2)" and all that follows through "Attorney General", and
 - (iii) by striking "petition for";
 - (D) by striking the first sentence of subsection (f) and inserting the following: "An alien over 18 years of age who is residing in the United States pursuant to a lawful admission for permanent residence may file with the Attorney General a declaration of intention to become a citizen of the United States. Such a declaration shall be filed in duplicate and in a form prescribed by the Attorney General and shall be accompanied by an application prescribed and approved by the Attorney General.";
 - (E) by redesignating subsection (f) as subsection (g); and
 - (F) by striking subsections (c) through (e) and inserting the following:

"(c) Hearings under section 336(a) on applications for naturalization shall be held at regular intervals specified by the Attorney General.

"(d) Except as provided in subsection (e), an application for naturalization shall be filed in the office of the Attorney General.

"(e) A person may file an application for naturalization other than in the office of the Attorney General, and an oath of allegiance administered other than in a

public ceremony before the Attorney General or a court, if the Attorney General determines that the person has an illness or other disability which—

“(1) is of a permanent nature and is sufficiently serious to prevent the person’s personal appearance, or

“(2) is of a nature which so incapacitates the person as to prevent him from personally appearing.”

(13) Section 335 (8 U.S.C. 1146) is amended—

(A) by amending the heading to read as follows:

“INVESTIGATION OF APPLICANTS; EXAMINATION OF APPLICATIONS”;

(B) in subsection (a), by striking “At any time” and all that follows through “336(a)” and inserting “Before a person may be naturalized”;

(C) in subsection (b)—

(i) by striking “preliminary” each place it appears,

(ii) in the first sentence, by striking “to any naturalization court” and all that follows through “to such court”,

(iii) by striking “any court exercising naturalization jurisdiction as specified in section 310 of this title” in the second sentence and inserting “any District Court of the United States”, and

(iv) by striking “final hearing conducted by a naturalization court designated in section 310 of this title” in the third sentence and inserting “hearing conducted by an immigration officer under section 336(a)”;

(D) in subsection (c)—

(i) by striking “preliminary” each place it appears, and

(ii) by striking “recommendation” and inserting “determination”; and

(E) by amending subsections (d) through (f) to read as follows:

“(d) The employee designated to conduct any such examination shall make a determination as to whether the application should be granted or denied, with reasons therefor.

“(e) After an application for naturalization has been filed with the Attorney General, the applicant shall not be permitted to withdraw his application, except with the consent of the Attorney General. In cases where the Attorney General does not consent to the withdrawal of the application, the application shall be determined on its merits and a final order determination made accordingly. In cases where the applicant fails to prosecute his application, the application shall be decided on the merits unless the Attorney General dismisses it for lack of prosecution.

“(f) An applicant for naturalization who moves from the district of the Service in the United States in which the application is pending may, at any time thereafter, request the Service to transfer the application to any district of the Service in the United States which may act on the application. The transfer shall not be made without the consent of the Attorney General. In the case of such a transfer, the proceedings on the application shall continue as though the application had originally been filed in the district of the Service to which the application is transferred.”

(14) Section 336 (8 U.S.C. 1447) is amended—

(A) by amending the heading to read as follows:

“HEARINGS ON DENIALS OF APPLICATIONS FOR NATURALIZATION”;

(B) by amending subsections (a) and (b) to read as follows:

“(a) If, after an examination under section 335, an application for naturalization is denied, the applicant may request a hearing before an immigration officer.

“(b) If there is a failure to make a determination under section 335 before the end of the 120-day period after the date on which the examination is conducted under such section, the applicant may apply to the United States district court for the district in which the applicant resides for a hearing on the matter. Such court has jurisdiction over the matter and may either determine the matter or remand the matter, with appropriate instructions, to the Service to determine the matter.”;

(C) in subsection (c), by striking “court” and inserting “immigration officer”;

(D) in subsection (d)—

(i) by striking “clerk of court” and all that follows through “naturalization” and inserting “immigration officer shall, if the applicant requests it at the time of filing the request for the hearing”,

(ii) by striking “final” each place it appears, and

(iii) by adding at the end the following: “Such subpoenas may be enforced in the same manner as subpoenas under section 335(b) may be enforced.”; and

(E) in subsection (e)—

- (i) by striking "naturalization of any person," and inserting "administration by a court of the oath of allegiance under section 337(a)", and
- (ii) by striking "included in the petition for naturalization of such person" and inserting "included in an appropriate petition to the court".
- (15) Section 337 (8 U.S.C. 1448) is amended—
- (A) in subsection (a)—
- (i) in the first sentence, by striking "in open court" and inserting "in a public ceremony before the Attorney General or a court with jurisdiction under section 310(b)",
- (ii) in the second and fourth sentences, by striking "naturalization court" each place it appears and inserting "Attorney General", and
- (iii) in the fourth sentence, by striking "the court" and inserting "the Attorney General";
- (B) in subsection (b)—
- (i) by striking "in open court in the court in which the petition for naturalization is made" and inserting "in the same public ceremony in which the oath of allegiance is administered", and
- (ii) by striking "in the court";
- (C) in subsection (c)—
- (i) by striking "being in open court" and inserting "attending a public ceremony", and
- (ii) by striking "a judge of the court at such place as may be designated by the court" and inserting "at such place as the Attorney General may designate under section 334(e)"; and
- (D) by adding at the end the following new subsection:
- "(d) The Attorney General shall prescribe rules and procedures to ensure that the ceremonies conducted by the Attorney General for the administration of oaths of allegiance under this section are public, conducted frequently and at regular intervals, and are in keeping with the dignity of the occasion."
- (16) Section 338 (8 U.S.C. 1449) is amended—
- (A) by striking "by a naturalization court",
- (B) by striking "the clerk of such court" and inserting "the Attorney General",
- (C) by striking "title, venue, and location of the naturalization court" and inserting "location of the District office of the Service in which the application was filed and the title, authority, and location of the official or court administering the oath of allegiance",
- (D) by striking "the court" and inserting "the Attorney General", and
- (E) by striking "of the clerk of the naturalization court; and seal of the court" and inserting "of an immigration officer; and the seal of the Department of Justice".
- (17) Section 339 (8 U.S.C. 1450) is amended to read as follows:
- "FUNCTIONS AND DUTIES OF CLERKS AND RECORDS OF DECLARATIONS OF INTENTION
AND APPLICATIONS FOR NATURALIZATION
- "SEC. 339. (a) The clerk of each court that administers oaths of allegiance under section 337 shall—
- "(1) issue to each person to whom such an oath is administered a document evidencing that such an oath was administered,
- "(2) forward to the Attorney General information concerning each person to whom such an oath is administered by the court, within 30 days after the close of the month in which the oath was administered,
- "(3) make and keep on file evidence for each such document issued, and
- "(4) forward to the Attorney General certified copies of such other proceedings and orders instituted in or issued out of the court affecting or relating to the naturalization of persons as may be required from time to time by the Attorney General.
- "(b) Each district office of the Service in the United States shall maintain, in chronological order, indexed, and consecutively numbered, as part of its permanent records, all declarations of intention and applications for naturalization filed with the office."
- (18) Section 340 (8 U.S.C. 1451) is amended—
- (A) in the first sentence of subsection (a), by striking "in any court specified in subsection (a) of section 310 of this title" and inserting "in any District Court of the United States",

(B) by amending the second sentence of subsection (g) to read as follows: "The clerk of the court shall transmit a copy of such order and judgment to the Attorney General."

(C) by striking the third sentence of subsection (g), and

(D) in subsection (i), by striking "any naturalization court" and all that follows through "to take such action" and inserting the following: "the Attorney General to correct, reopen, alter, modify, or vacate an order naturalizing the person".

(19) Section 344 (8 U.S.C. 1455) is amended—

(A) in subsection (a)—

(i) by striking "The clerk of court" and inserting "The Attorney General"

(ii) in paragraph (1), by striking "final", and

(iii) in paragraph (1), by striking "the naturalization court" and inserting "the Attorney General";

(B) by striking subsections (c), (d), (e), and (f);

(C) in subsection (g)—

(i) by striking ", and all fees paid over to the Attorney General by clerks of courts under the provisions of this title," and

(ii) by striking "or by the clerks of the courts";

(D) in subsection (h)—

(i) by striking "no clerk of a United States court shall" and inserting "the Attorney General may not",

(ii) by striking ", and no clerk of any State court" and all that follows through "charged or collected", and

(iii) by striking the second sentence;

(E) in subsection (i), by striking "clerk of court", "from the clerk", "such clerk", and "by the clerk" and inserting "Attorney General", "from the Attorney General", "the Attorney General", and "by the Attorney General", respectively; and

(F) by redesignating subsections (g), (h), and (i) as subsections (c), (d), and (e), respectively.

(20) Section 348 (8 U.S.C. 1459) is repealed.

(e) STRIKING MISCELLANEOUS MATERIAL.—(1) Section 316 (8 U.S.C. 1427) is amended by striking subsection (f) and by redesignating subsection (g) as subsection (f).

(2) Section 331 (8 U.S.C. 1442) is amended by striking the second sentence of subsection (d).

(f) CORRECTIONS OF TABLE OF CONTENTS.—(1) The items in the table of contents relating to sections 334 through 336 are amended to read as follows:

"Sec. 334. Application for naturalization; declaration of intention.

"Sec. 335. Investigation of applicants; examination of applications.

"Sec. 336. Hearings on denials of applications for naturalization."

(2) The item in the table of contents relating to section 339 is amended to read as follows:

"Sec. 339. Functions and duties of clerks and records of declarations of intention and applications for naturalization."

(3) The item in the table of contents relating to section 348 is repealed.

SEC. 408. EFFECTIVE DATES AND SAVINGS PROVISIONS.

(a) EFFECTIVE DATE.—

(1) NO NEW COURT PETITIONS AFTER EFFECTIVE DATE.—No court shall have jurisdiction, under section 310(a) of the Immigration and Nationality Act, to naturalize a person unless a petition for naturalization with respect to that person has been filed with the court before October 1, 1991.

(2) TREATMENT OF CURRENT COURT PETITIONS.—

(A) CONTINUATION OF CURRENT RULES.—Except as provided in subparagraph (B), any petition for naturalization which may be pending in a court on October 1, 1991, shall be heard and determined in accordance with the requirements of law in effect when the petition was filed.

(B) PERMITTING WITHDRAWAL AND CONSIDERATION OF APPLICATION UNDER NEW RULES.—In the case of any petition for naturalization which may be pending in any court on January 1, 1992,¹⁸ the petitioner may

¹⁸§ 305(n) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1750) substituted "January 1, 1992" for "the date

withdraw such petition and have the petitioner's application for naturalization considered under the amendments made by this title, but only if the petition is withdrawn not later than 3 months after the effective date.

(3) **GENERAL EFFECTIVE DATE.**—Except as otherwise provided in this section, the amendments made by this title are effective as of the date of the enactment of this Act.

(b) **INTERIM, FINAL REGULATIONS.**—The Attorney General shall prescribe regulations (on an interim, final basis or otherwise) to implement the amendments made by this title on a timely basis.

(c) **CONTINUING DUTIES.**—The amendments to section 339 of the Immigration and Nationality Act (relating to functions and duties of clerks) shall not apply to functions and duties respecting petitions filed before October 1, 1991.

(d) **GENERAL SAVINGS PROVISIONS.**—(1) Nothing contained in this title, unless otherwise specifically provided, shall be construed to affect the validity of any declaration of intention, petition for naturalization, certificate of naturalization, certification of citizenship, or other document or proceeding which is valid as of the effective date; or to affect any prosecution, suit, action, or proceedings, civil or criminal, brought, or any status, condition, right in process of acquisition, act, thing, liability, obligation, or matter, civil or criminal, done or existing, as of the effective date.

(2) As to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, liabilities, obligations, or matters, the provisions of law repealed by this title are, unless otherwise specifically provided, hereby continued in force and effect.

(e) **TREATMENT OF SERVICE IN ARMED FORCES OF FOREIGN COUNTRY.**—The amendments made by section 404 (relating to treatment of service in armed forces of a foreign country) shall take effect on the date of the enactment of this Act and shall apply to exemptions from training or service obtained before, on, or after such date.

(f) **FILIPINO WAR VETERANS.**—Section 405 (relating to naturalization of natives of the Philippines through active-duty service under United States command during World War II) shall become effective on May 1, 1991, without regard to whether regulations to implement such section have been issued by such date.

TITLE V—ENFORCEMENT

Subtitle A—Criminal Aliens

SEC. 501. AGGRAVATED FELONY DEFINITION.

(a) **IN GENERAL.**—Paragraph (43) of section 101(a) (8 U.S.C. 1101(a)) is amended—

(1) by aligning its left margin with the left margin of paragraph (42),

(2) by inserting “any illicit trafficking in any controlled substance (as defined in section 102 of the Controlled Substances Act), including” after “murder,”

(3) by inserting after “such title,” the following: “any offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments), or any crime of violence (as defined in section 16 of title 18, United States Code, not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years,”

(4) by striking “committed within the United States”,

(5) by adding at the end the following: “Such term applies to offenses described in the previous sentence whether in violation of Federal or State law.”, and

(6) by inserting before the period of the sentence added by paragraph (5) the following: “and also applies to offenses described in the previous sentence in violation of foreign law for which the term of imprisonment was completed within the previous 15 years”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to offenses committed on or after the date of the enactment of this Act, except that the amendments made by paragraphs (2) and (5) of subsection (a) shall be effective as if included in the enactment of section 7342 of the Anti-Drug Abuse Act of 1988.

of the enactment of this Act”, effective as if included in the enactment of the Immigration Act of 1990.

SEC. 502. SHORTENING PERIOD TO REQUEST JUDICIAL REVIEW.

(a) **IN GENERAL.**—Section 106(a)(1) (8 U.S.C. 1105a(a)(1)) is amended by striking “60 days” and inserting “30 days”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to final deportation orders issued on or after January 1, 1991.

SEC. 503. ENHANCING ENFORCEMENT AUTHORITY OF INS OFFICERS.

(a) **BROADENING AUTHORITY.**—Section 287(a) (8 U.S.C. 1357(a)) is amended—

(1) by striking “and” at the end of paragraph (3), and

(2) in paragraph (4), by striking “United States” the second place it appears and all that follows and inserting the following: “United States, and

“(5) to make arrests—

“(A) for any offense against the United States, if the offense is committed in the officer’s or employee’s presence, or

“(B) for any felony cognizable under the laws of the United States, if the officer or employee has reasonable grounds to believe that the person to be arrested has committed or is committing such a felony,

if the officer or employee is performing duties relating to the enforcement of the immigration laws at the time of the arrest and if there is a likelihood of the person escaping before a warrant can be obtained for his arrest.

Under regulations prescribed by the Attorney General, an officer or employee of the Service may carry a firearm and may execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States. The authority to make arrests under paragraph (5)(B) shall only be effective on and after the date on which the Attorney General publishes final regulations which (i) prescribe the categories of officers and employees of the Service who may use force (including deadly force) and the circumstances under which such force may be used, (ii) establish standards with respect to enforcement activities of the Service, (iii) require that any officer or employee of the Service is not authorized to make arrests under paragraph (5)(B) unless the officer or employee has received certification as having completed a training program which covers such arrests and standards described in clause (ii), and (iv) establish an expedited, internal review process for violations of such standards, which process is consistent with standard agency procedure regarding confidentiality of matters related to internal investigations.”.

(b) **REQUIRING FINGERPRINTING AND PHOTOGRAPHING OF CERTAIN ALIENS.**—(1) Section 287 is further amended by adding at the end the following new subsection:

“(f)(1) Under regulations of the Attorney General, the Commissioner shall provide for the fingerprinting and photographing of each alien 14 years of age or older against whom a proceeding is commenced under section 242.

“(2) Such fingerprints and photographs shall be made available to Federal, State, and local law enforcement agencies, upon request.”.

(2) Section 264(b) (8 U.S.C. 1304(b)) is amended by inserting “(1) pursuant to section 287(f)(2), and (2)” after “only”.

SEC. 504. CUSTODY PENDING DETERMINATION OF DEPORTABILITY AND EXCLUDABILITY.

(a) **DEPORTABILITY.**—Section 242(a)(2) (8 U.S.C. 1252(a)(2)) is amended—

(1) in the first sentence, by striking “upon completion of the alien’s sentence for such conviction” and inserting “upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense)”,

(2) in the second sentence, by inserting “but subject to subparagraph (B)” after “Notwithstanding subsection (a)”,

(3) in the second sentence, by striking “subsection (a)” and inserting “paragraph (1) or subsections (c) and (d)”,

(4) by inserting “(A)” after “(2)”, and

(5) by adding at the end the following new subparagraph:

“(B) The Attorney General shall release from custody an alien who is lawfully admitted for permanent residence on bond or such other conditions as the Attorney General may prescribe if the Attorney General determines that the alien is not a threat to the community and that the alien is likely to appear before any scheduled hearings.”.

(b) **EXCLUDABILITY.**—Section 236 (8 U.S.C. 1226) is amended by adding at the end the following new subsection:

“(e)(1) Pending a determination of excludability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien’s sentence for such conviction.

"(2) Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody unless the Attorney General determines that the alien may not be deported because the condition described in section 243(g) exists.

"(3) If the determination described in paragraph (2) has been made, the Attorney General may release such alien only after—

"(A) a procedure for review of each request for relief under this subsection has been established,

"(B) such procedure includes consideration of the severity of the felony committed by the alien, and

"(C) the review concludes that the alien will not pose a danger to the safety of other persons or to property."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 505. ELIMINATION OF JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION.

(a) **IN GENERAL.**—Section 241(b) (8 U.S.C. 1251(b)) is amended—

(1) in the first sentence—

(A) by striking "(1)", and

(B) by striking ", or (2)" and all that follows up to the period at the end; and

(2) in the second sentence, by inserting "or who has been convicted of an aggravated felony" after "subsection (a)(11) of this section".

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to convictions entered before, on, or after such date.

SEC. 506. CLARIFICATION RESPECTING DISCRETIONARY AUTHORITY IN DEPORTATION PROCEEDINGS FOR INCARCERATED ALIENS.

(a) **IN GENERAL.**—Section 242A(d)(2) (8 U.S.C. 1252a(d)(2)) is amended by striking ", unless" and all that follows up to the period at the end.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 507. REQUIRING COORDINATION PLAN WITH INS AS A CONDITION FOR RECEIPT OF DRUG CONTROL AND SYSTEM IMPROVEMENT GRANTS UNDER THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) **IN GENERAL.**—Section 503(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

"(11) An assurance that the State has established a plan under which the State will provide without fee to the Immigration and Naturalization Service, within 30 days of the date of their conviction, notice of conviction of aliens who have been convicted of violating the criminal laws of the State and under which the State will provide the Service with the certified record of such a conviction within 30 days of the date of a request by the Service for such record." ¹⁹

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to grants for fiscal years beginning with fiscal year 1991.

SEC. 508. DEPORTATION FOR ATTEMPTED VIOLATIONS OF CONTROLLED SUBSTANCES LAWS.

(a) **IN GENERAL.**—Section 241(a)(11) (8 U.S.C. 1251(a)(11)) is amended by inserting "or attempt" after "conspiracy".

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to convictions occurring on or after the date of the enactment of this Act.

SEC. 509. GOOD MORAL CHARACTER DEFINITION.

(a) **IN GENERAL.**—Section 101(f)(8) (8 U.S.C. 1101(f)(8)) is amended by striking "the crime of murder" and inserting "an aggravated felony (as defined in subsection (a)(43))".

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to convictions occurring

¹⁹This paragraph is shown as amended by § 306(a)(6) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1751), which amendments substituted "notice" for "the certified records" and inserted all that follows "laws of the State", effective as if included in the enactment of the Immigration Act of 1990.

on or after such date,²⁰ except with respect to conviction for murder which shall be considered a bar to good moral character regardless of the date of the conviction.

SEC. 510. REPORT ON CRIMINAL ALIENS.

(a) **IN GENERAL.**—The Attorney General shall submit to the appropriate Committees of the Congress, by not later than December 1, 1991, a report that describes the efforts of the Immigration and Naturalization Service to identify, apprehend, detain, and remove from the United States aliens who have been convicted of crimes in the United States.

(b) **CRIMINAL ALIEN CENSUS.**—Such report shall include a statement of—

(1) the number of aliens in the United States who have been convicted of a criminal offense in the United States, and, of such number, the number of such aliens who are not lawfully admitted to the United States;

(2) the number of aliens lawfully admitted to the United States who have been convicted of such an offense and, based on such conviction, are subject to deportation from the United States;

(3) the number of aliens in the United States who are incarcerated in a penal institution in the United States, and, of such number, the number of such aliens who are not lawfully admitted to the United States;

(4)(A) the number of aliens whose deportation hearings have been conducted pursuant to section 242A(a) of the Immigration and Nationality Act, and (B) the percentage that such number represents of the total number of deportable aliens with respect to whom a hearing under such section could have been conducted since November 18, 1988; and

(5) the number of aliens in the United States who have reentered the United States after having been convicted of a criminal offense in the United States.

Within each of the numbers of aliens specified under this subsection who have been convicted of criminal offenses, the Attorney General shall distinguish between criminal offenses that are aggravated felonies (as defined in section 101(a)(43) of the Immigration and Nationality Act, as amended by this Act) and other criminal offenses.

(c) **CRIMINAL ALIEN REMOVAL PLAN.**—The Attorney General shall include in the report a plan for the prompt removal from the United States of criminal aliens who are subject to exclusion or deportation. Such plan shall also include a statement of additional funds that would be required to provide for the prompt removal from the United States of—

(1)(A) aliens who are not lawfully admitted to the United States and who, as of the date of the enactment of this Act, have committed any criminal offense in the United States, and (B) aliens who are lawfully admitted to the United States and who, as of such date, have committed a criminal offense in the United States the commission of which makes the alien subject to deportation; and

(2)(A) aliens who are not lawfully admitted to the United States and who, in the future, commit a criminal offense in the United States, and (B) aliens who are lawfully admitted to the United States and who, in the future, commit a criminal offense in the United States the commission of which makes the alien subject to deportation.

Such plan shall also include a method for identifying and preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and removed from the United States.

SEC. 511. LIMITATION ON WAIVER OF EXCLUSION FOR RETURNING PERMANENT RESIDENTS CONVICTED OF AN AGGRAVATED FELONY.

(a) **IN GENERAL.**—Section 212(c) (8 U.S.C. 1182(c)) is amended by adding at the end the following: "The first sentence of this subsection shall not apply to an alien who has been convicted of an aggravated felony and has served a term of imprisonment of at least 5 years."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to admissions occurring after the date of the enactment of this Act.

SEC. 512. AUTHORIZATION OF ADDITIONAL IMMIGRATION JUDGES FOR DEPORTATION PROCEEDINGS INVOLVING CRIMINAL ALIENS.

There are authorized to be appropriated in each of fiscal years 1991 through 1995 such sums as are necessary to provide for 20 additional immigration judges in the Department of Justice, to be used to conduct proceedings under section 242A(d) of the Immigration and Nationality Act (8 U.S.C. 1252a(d)).

²⁰The phrase beginning "except" was inserted by § 306(a)(7) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1751), effective as if included in the enactment of the Immigration Act of 1990.

SEC. 513. EFFECT OF FILING PETITION FOR REVIEW.

(a) **NO STAY UNLESS COURT ORDER.**—Section 106(a)(3) (8 U.S.C. 1105a(a)(3)) is amended by inserting before the semicolon at the end the following: “or unless the alien is convicted of an aggravated felony, in which case the Service shall not stay the deportation of the alien pending determination of the petition of the court unless the court otherwise directs”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to petitions for review filed more than 60 days after the date of the enactment of this Act and²¹ shall apply to convictions entered before, on, or after such date.

SEC. 514. EXTENDING BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) **IN GENERAL.**—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended by striking “ten years” and inserting “20 years”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to admissions occurring on or after January 1, 1991.

SEC. 515. ASYLUM IN THE CASE OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) **IN GENERAL.**—(1) Section 208 (8 U.S.C. 1158) is amended by adding at the end the following new subsection:

“(d) An alien who has been convicted of an aggravated felony, notwithstanding subsection (a), may not apply for or be granted asylum.”.

(2) Section 243(h)(2) (8 U.S.C. 1253(h)(2)) is amended by adding at the end the following:

“For purposes of subparagraph (B), an alien who has been convicted of an aggravated felony shall be considered to have committed a particularly serious crime.”.

(b) **EFFECTIVE DATES.**—

(1)²² The amendment made by subsection (a)(1) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for asylum made on or after such date.

(2)²² The amendment made by subsection (a)(2) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for withholding of deportation made on or after such date.

Subtitle B—Provision Relating to Employer Sanctions

SEC. 521. ELIMINATION OF PAPERWORK REQUIREMENT FOR RECRUITERS AND REFERRERS.

(a) **IN GENERAL.**—Section 274A(a)(1) (8 U.S.C. 1324a(a)(1)) is amended—

(1) by striking “to hire, or to recruit or refer for a fee, for employment in the United States”,

(2) in subparagraph (A), by inserting after “(A)” the following: “to hire, or to recruit or refer for a fee, for employment in the United States”, and

(3) in subparagraph (B), by inserting after “(B)” the following: “(i) to hire for employment in the United States an individual without complying with the requirements of subsection (b) or (ii) if the person or entity is an agricultural association, agricultural employer, or farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act), to hire, or to recruit or refer for a fee, for employment in the United States”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to recruiting and referring occurring on or after the date of the enactment of this Act.

²¹ The phrase beginning “and shall apply” was inserted by § 306(a)(11)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1751), effective as if included in the enactment of the Immigration Act of 1990.

²² Paragraphs (1) and (2) of section 515(b) were amended to read as shown by § 306(a)(13) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1752), effective as if included in the enactment of the Immigration Act of 1990.

Subtitle C—Provisions Relating to Anti-Discrimination

SEC. 531. DISSEMINATION OF INFORMATION CONCERNING ANTI-DISCRIMINATION PROTECTIONS UNDER IRCA AND TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.

[Omitted; added subsection (l) at the end of section 274B.]

SEC. 532. INCLUSION OF CERTAIN SEASONAL AGRICULTURAL WORKERS WITHIN SCOPE OF ANTI-DISCRIMINATION PROTECTIONS.

(a)²³ IN GENERAL.—Section 274B(a)(3)(B)(i) (8 U.S.C. 1324b(a)(3)(B)(i)) is amended by inserting “210(a), 210A(a), or” before “245A(a)(1)”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions occurring on or after the date of the enactment of this Act.

SEC. 533. ELIMINATION OF REQUIREMENT THAT ALIENS FILE A DECLARATION OF INTENDING TO BECOME A CITIZEN IN ORDER TO FILE ANTI-DISCRIMINATION COMPLAINT.

(a) IN GENERAL.—Section 274B(a) (8 U.S.C. 1324b(a)) is amended—

(1) in paragraph (1)(B), by striking “citizen or intending citizen” and inserting “protected individual”;

(2) in paragraph (3), by striking “CITIZEN OR INTENDING CITIZEN” and inserting “PROTECTED INDIVIDUAL”;

(3) in paragraph (3), by striking “citizen or intending citizen” and inserting “protected individual”; and

(4) in paragraph (3)(B)—

(A) by striking “is an alien” and all that follows through “but does not” and inserting “is an alien who is lawfully admitted for permanent residence, is granted the status of an alien lawfully admitted for temporary residence under section 210(a), 210A(a), or 245A(a)(1), is admitted as a refugee under section 207, or is granted asylum under section 208; but does not”, and

(B) by striking “(I)” and “(II)” and inserting “(i)” and “(ii)”, respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to unfair immigration-related employment practices occurring before, on, or after the date of the enactment of this Act.

SEC. 534. ANTI-RETALIATION PROTECTIONS.

(a) CODIFICATION OF REGULATION.—[Omitted; added paragraph (5) at the end of section 274B(a).]

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions occurring on or after the date of the enactment of this Act.

SEC. 535. TREATMENT OF CERTAIN ACTIONS AS DISCRIMINATION.

(a) DOCUMENTATION ABUSES.—[Omitted; added paragraph (6) at the end of section 274B(a).]

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, but shall apply to actions occurring on or after such date.

SEC. 536. CONFORMING CIVIL MONEY PENALTIES FOR ANTI-DISCRIMINATION VIOLATIONS TO THOSE FOR EMPLOYER SANCTIONS.

(a) CIVIL MONEY PENALTIES.—[Omitted; amended clause (iv) of section 274B(g)(2)(B) in its entirety.]

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to unfair immigration-related employment practices occurring after the date of the enactment of this Act.

SEC. 537. PERIOD FOR FILING OF COMPLAINTS.

(a) 120-DAY PERIOD.—Section 274B(d)(2) (8 U.S.C. 1324b(d)(2)) is amended—

(1) by inserting “the Special Counsel shall notify the person making the charge of the determination not to file such a complaint during such period and” after “120-day period.”;

(2) by inserting “within 90 days after the date of receipt of the notice” before the period at the end, and

(3) by adding at the end the following: “The Special Counsel’s failure to file such a complaint within such 120-day period shall not affect the right of the

²³ Amendment effectively superseded by amendment made by § 533(a)(4)(A), shown below.

Special Counsel to investigate the charge or to bring a complaint before an administrative law judge during such 90-day period.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to charges received on or after the date of the enactment of this Act.

SEC. 538. SPECIAL COUNSEL ACCESS TO EMPLOYMENT ELIGIBILITY VERIFICATION FORMS.

(a) **IN GENERAL.**—Section 274A(b)(3) (8 U.S.C. 1324a(b)(3)) is amended by inserting “, the Special Counsel for Immigration-Related Unfair Employment Practices,” after “officers of the Service,”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 539. ADDITIONAL RELIEF IN ORDERS.

(a) **IN GENERAL.**—[Omitted; added clauses (v) through (viii) to section 274B(g)(2)(B).]

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to orders with respect to unfair immigration-related employment practices occurring on or after the date of the enactment of this Act.

Subtitle D—General Enforcement

SEC. 541. AUTHORIZING INCREASE BY 1,000 IN BORDER PATROL PERSONNEL.

There are authorized to be appropriated for fiscal year 1991 such additional sums as may be necessary to provide for an increase of 1,000 in the authorized personnel level of the border patrol of the Immigration and Naturalization Service, above the authorized level of the patrol as of September 30, 1990.

SEC. 542. APPLICATION OF INCREASE IN PENALTIES TO ENHANCE ENFORCEMENT ACTIVITIES.

(a) **IN GENERAL.**—Section 280 (8 U.S.C. 1330) is amended—

(1) by inserting “(a)” after “280.” and

(2) [Omitted; added subsection (b) at the end of section 280.]

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to fines and penalties collected on or after January 1, 1991.

SEC. 543. INCREASE IN FINE LEVELS; AUTHORITY OF THE INS TO COLLECT FINES.

(a) **CIVIL PENALTIES.**—

(1) **FAILURE TO DELIVER MANIFEST.**—Section 231(d) (8 U.S.C. 1221(d)) is amended by striking “collector of customs at the port of arrival or departure the sum of \$10” and inserting “Commissioner the sum of \$300”.

(2) **FAILURE TO PROVIDE FOR DEPORTATION.**—Section 237(b) (8 U.S.C. 1227(b)) is amended by striking “district director of customs of the district in which port of arrival is situated or in which any vessel or aircraft of the line may be found, the sum of \$300” and inserting “Commissioner the sum of \$2,000”.

(3) **IMPROPER AIRCRAFT ENTRY.**—Section 239 (8 U.S.C. 1229) is amended by striking “\$500” each place it appears and inserting “\$2,000”.

(4) **FAILURE TO CONTROL CREW.**—Section 254(a) (8 U.S.C. 1284(a)) is amended—

(A) in the first sentence, by striking “collector of customs of the customs district in which the port of arrival is located or in which the failure to comply with the orders of the officer occurs the sum of \$1,000” and inserting “Commissioner the sum of \$3,000”, and

(B) in the third sentence by striking “\$200” and inserting “\$500”.

(5) **EMPLOYMENT OF CERTAIN CREW.**—Section 255 (8 U.S.C. 1285) is amended—

(A) in the second sentence, by striking “collector of customs of the customs district in which the port of arrival is located the sum of \$50” and inserting “Commissioner the sum of \$1,000”, and

(B) in the third sentence, by striking “collector of customs” and inserting “Commissioner”.

(6) **IMPROPER DISCHARGE OF CREW.**—Section 256 (8 U.S.C. 1286) is amended—

(A) in the second sentence, by striking “collector of customs of the customs district in which the violation occurred the sum of \$1,000” and inserting “Commissioner the sum of \$3,000”,

(B) in the third sentence, by striking “collector of customs” and inserting “Commissioner”, and

(C) in the fourth sentence, by striking "\$500" and inserting "\$1,500".
 (7) ASSISTING UNLAWFUL ENTRY OF CREW.—Section 257 (8 U.S.C. 1287) is amended by striking "\$5,000" and inserting "\$10,000".

(8) DUTY TO PREVENT UNAUTHORIZED ENTRIES.—Section 271(a) (8 U.S.C. 1321) is amended by striking "\$1,000" and inserting "\$3,000".

(9) BRINGING IN CERTAIN ALIENS.—Section 272 (8 U.S.C. 1322) is amended—

(A) in subsection (a)—

(i) by striking "collector of customs of the customs district in which the place of arrival is located" and inserting "Commissioner", and

(ii) by striking "\$1,000" and inserting "\$3,000";

(B) in subsection (b)²⁴—

(i) by striking "collector of customs of the customs district in which the place of arrival is located" and inserting "Commissioner", and

(ii) by striking "\$250" and inserting "\$3,000"; and

(C) in subsection (c), by striking "collector of customs" and inserting "Commissioner".

(10) UNLAWFUL BRINGING OF ALIENS.—Section 273 (8 U.S.C. 1323) is amended—

(A) in subsection (b), by striking "collector of customs of the customs district in which the port of arrival is located the sum of \$1,000" and inserting "Commissioner the sum of \$3,000", and

(B) in subsection (d)—

(i) in the first sentence, by striking "collector of customs of the customs district in which the port of arrival is located the sum of \$1,000" and inserting "Commissioner the sum of \$3,000", and

(ii) in the second sentence, by striking "collector of customs" and inserting "Commissioner".

(b) CRIMINAL FINE LEVELS.—

(1) CREW MEMBER OVERSTAYING.—Section 252(c) (8 U.S.C. 1282(c)) is amended by striking "shall be guilty" and all that follows through "six months" and inserting "shall be fined not more than \$2,000 (or, if greater, the amount provided under title 18, United States Code) or imprisoned not more than 6 months".

(2) CONCEALMENT OF ALIENS.—Section 275 (8 U.S.C. 1325) is amended—

(A) by inserting "or attempts to enter" after "(1) enters",

(B) by inserting "attempts to enter or" after "or (3)", and

(C) by striking "shall, for the first commission", and all that follows through "\$1,000" and inserting "shall, for the first commission of any such offense, be fined not more than \$2,000 (or, if greater, the amount provided under title 18, United States Code) or imprisoned not more than 6 months, or both, and, for a subsequent commission of any such offense, be fined under title 18, United States Code, or imprisoned not more than 2 years".

(3) UNLAWFUL REENTRY.—Section 276 (8 U.S.C. 1326) is amended by striking "shall be guilty" and all that follows through "\$1,000" and inserting "shall be fined under title 18, United States Code, or imprisoned not more than 2 years".

(4) AIDING IN ENTRY OF SUBVERSIVES.—Section 277 (8 U.S.C. 1327) is amended by striking "shall be guilty" and all that follows through "five years" and inserting "shall be fined under title 18, United States Code, or imprisoned not more than 10 years".

(5) IMPORTING PROSTITUTES.—Section 278 (8 U.S.C. 1328) is amended by striking "shall, in every" and all that follows through "ten years" and inserting "shall be fined under title 18, United States Code, or imprisoned not more than 10 years, or both".

(c) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) shall apply to actions taken after the date of the enactment of this Act.

SEC. 544. CIVIL PENALTIES FOR DOCUMENT FRAUD.

(a) DOCUMENT FRAUD.—[Omitted; added section 274C.]

(b) NEW GROUND OF DEPORTATION.—Section 241(a) (8 U.S.C. 1251(a)) is amended—

(1) by striking "or" at the end of paragraph (19),

(2) by striking the period at the end of paragraph (20) and inserting "; or",

and

(3) by adding at the end the following new paragraph:

"(21) is the subject of a final order for violation of section 274C.".

²⁴ Note that subsection (b) was stricken by § 603(a)(15)(B) of the Immigration Act of 1990.

(c) CLERICAL AMENDMENT.—[Omitted; conforming amendment to table of contents.]

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to persons or entities that have committed violations on or after the date of the enactment of this Act.

SEC. 545. DEPORTATION PROCEDURES; REQUIRED NOTICE OF DEPORTATION HEARING; LIMITATION ON DISCRETIONARY RELIEF.

(a) IN GENERAL.—[Omitted; inserted section 242B.]

(b) JUDICIAL REVIEW.—Section 106(a) (8 U.S.C. 1105a) is amended—

(1) in paragraph (1), by striking “6 months” and inserting “90 days”,

(2) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10), respectively, and

(3) by inserting after paragraph (5) the following new paragraph:

“(6) whenever a petitioner seeks review of an order under this section, any review sought with respect to a motion to reopen or reconsider such an order shall be consolidated with the review of the order.”

(c) REPORT ON CONSOLIDATION OF REQUESTS FOR RELIEF.—The Attorney General shall submit to the Congress by not later than 6 months after the date of the enactment of this Act, a report on abuses associated with the failure of aliens to consolidate requests for discretionary relief before immigration judges at the first hearing on the merits. The Attorney General shall take into account possible exceptions appropriate in the interest of justice and shall include in the report such recommendations for changes in regulations or law as may be needed to prevent such abuses.

(d) REGULATIONS ON MOTIONS TO REOPEN AND TO RECONSIDER AND ON ADMINISTRATIVE APPEALS.—Within 6 months after the date of the enactment of this Act, the Attorney General shall issue regulations with respect to—

(1) the period of time in which motions to reopen and to reconsider may be offered in deportation proceedings, which regulations include a limitation on the number of such motions that may be filed and a maximum time period for the filing of such motions; and

(2) the time period for the filing of administrative appeals in deportation proceedings and for the filing of appellate and reply briefs, which regulations include a limitation on the number of administrative appeals that may be made, a maximum time period for the filing of such motions and briefs, the items to be included in the notice of appeal, and the consolidation of motions to reopen or to reconsider with the appeal of the order of deportation.

(e) CONFORMING AMENDMENT.—The 8th sentence of section 242(b) (8 U.S.C. 1252(b)) is amended to read as follows: “Such regulations shall include requirements consistent with section 242B.”

(f) CLERICAL AMENDMENT.—[Omitted; conforming amendment to table of contents.]

(g) EFFECTIVE DATES.—

(1) NOTICE-RELATED PROVISIONS.—

(A) Subsections (a), (b), (c), and (e)(1) of section 242B of the Immigration and Nationality Act (as inserted by the amendment made by subsection (a)), and the amendment made by subsection (e), shall be effective on a date specified by the Attorney General in the certification described in subparagraph (B), which date may not be earlier than 6 months after the date of such certification.

(B) The Attorney General shall certify to the Congress when the central address file system (described in section 242B(a)(4) of the Immigration and Nationality Act) has been established.

(C) The Comptroller General shall submit to Congress, within 3 months after the date of the Attorney General's certification under subparagraph (B), a report on the adequacy of such system.

(2) CERTAIN LIMITS ON DISCRETIONARY RELIEF; SANCTIONS FOR FRIVOLOUS BEHAVIOR.—Subsections (d), (e)(2), and (e)(3) of section 242B of the Immigration and Nationality Act (as inserted by the amendment made by subsection (a)) shall be effective on the date of the enactment of this Act.

(3) LIMITS ON DISCRETIONARY RELIEF FOR FAILURE TO APPEAR IN ASYLUM HEARING.—Subsection (e)(4) of section 242B of the Immigration and Nationality Act (as inserted by the amendment made by subsection (a)) shall be effective on February 1, 1991.

(4) CONSOLIDATION OF RELIEF IN JUDICIAL REVIEW.—The amendments made by subsection (b) shall apply to final orders of deportation entered on or after January 1, 1991.

TITLE VI—EXCLUSION AND DEPORTATION

SEC. 601. REVISION OF GROUNDS FOR EXCLUSION.

(a) REVISED GROUNDS FOR EXCLUSION.—[Omitted; amended subsection (a) of section 212 in its entirety.]

(b) NOTICE OF GROUNDS FOR EXCLUSION.—[Omitted; amended subsection (b) of section 212 in its entirety.]

(c) REVIEW OF EXCLUSION LISTS.—The Attorney General and the Secretary of State shall develop protocols and guidelines for updating lookout books and the automated visa lookout system and similar mechanisms for the screening of aliens applying for visas for admission, or for admission, to the United States. Such protocols and guidelines shall be developed in a manner that ensures that in the case of an alien—

(1) whose name is in such system, and

(2) who either (A) applies for entry after the effective date of the amendments made by this section, or (B) requests (in writing to a local consular office after such date) a review, without seeking admission, of the alien's continued excludability under the Immigration and Nationality Act, if the alien is no longer excludable because of an amendment made by this section the alien's name shall be removed from such books and system and the alien shall be informed of such removal and if the alien continues to be excludable the alien shall be informed of such determination.

(d) CONFORMING AMENDMENTS TO SECTION 212.—

(1) Subsection (c) of section 212 (8 U.S.C. 1182) is amended by striking “paragraph (1) through (25) and paragraphs (30) and (31) of subsection (a)” and inserting “subsection (a) (other than subparagraphs (A), (B), (C), or (E) of paragraph (3))”.

(2) Subsection (d) of such section is amended—

(A) by striking paragraphs (1), (2), (6), (9), and (10);

(B) in paragraph (3)—

(i) by striking “under one or more of the paragraphs enumerated in subsection (a) (other than paragraphs (27), (29), and (33))” and inserting “under subsection (a) (other than paragraphs (3)(A), (3)(C), and (3)(D) of such subsection)” each place it appears, and

(ii) by adding at the end the following new sentence: “The Attorney General shall prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of excludable aliens applying for temporary admission under this paragraph.”;

(C) in paragraph (4), by striking “(26)” and inserting “(7)(B)(i)”;

(D) in paragraph (7), by striking “of this section, except paragraphs (20), (21), and (26),” and inserting “(other than paragraph (7))”;

(E) in paragraph (8), by striking “(26), (27), and (29)” and inserting “(3)(A), (3)(B), (3)(C), and (7)(B)”;

(F) [Omitted; added paragraph (11) at the end of section 212(d).]

(3) [Omitted; amended subsection (g) of section 212 in its entirety.]

(4) [Omitted; amended subsection (h) of section 212 in its entirety.]

(5) [Omitted; amended subsection (i) of section 212 in its entirety.]

(6) Subsection (k) of such section is amended by striking “paragraph (14), (20), or (21)” and inserting “paragraph (5)(A) or (7)(A)(i)”.

(7) Subsection (l) of such section is amended by striking “paragraph (26)(B)” and inserting “paragraph (7)(B)(i)”.

(e) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section and by section 603(a) of this Act shall apply to individuals entering the United States on or after June 1, 1991.

(2) The amendments made by paragraphs (5) and (13) of section 603(a) shall apply to applications for adjustment of status made on or after June 1, 1991.

SEC. 602. REVISION OF GROUNDS FOR DEPORTATION.

(a) REVISED GROUNDS FOR DEPORTATION.—[Omitted; amended subsection (a) of section 241 in its entirety.]

(b) CONFORMING AMENDMENTS TO SECTION 241.—²⁵

(1) Subsections (b), (c), (f), and (g) of section 241 are repealed.

(2) Subsection (e) of such section is amended—

(A) by striking “subsection (a) (6) or (7) of this section” and inserting “paragraph (4) of subsection (a)”, and

(B) by redesignating such subsection as subsection (b).

(c) SAVINGS PROVISION.—Notwithstanding the amendments made by this section, any alien who was deportable because of a conviction (before the date of the enactment of this Act) of an offense referred to in paragraph (15), (16), (17), or (18) of section 241(a) of the Immigration and Nationality Act, as in effect before the date of the enactment of this Act, shall be considered to remain so deportable. Except as otherwise specifically provided in such section and subsection (d), the provisions of such section, as amended by this section, shall apply to all aliens described in subsection (a) thereof notwithstanding that (1) any such alien entered the United States before the date of the enactment of this Act, or (2) the facts, by reason of which an alien is described in such subsection, occurred before the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section, and by section 603(b) of this Act, shall not apply to deportation proceedings for which notice has been provided to the alien before March 1, 1991.

SEC. 603. CONFORMING AMENDMENTS.

(a) RELATING TO GROUNDS FOR EXCLUSION.—²⁶

(1) Section 101 (8 U.S.C. 1101) is amended—

(A) in subsection (f)(3), by striking “paragraphs (11), (12), and (31)” and inserting “paragraphs (2)(D), (6)(E), and (9)(A)”,

(B) in subsection (f)(3), by striking “paragraphs (9) and (10) of section 212(a) and paragraph (23)” and inserting “subparagraphs (A) and (B) of section 212(a)(2) and subparagraph (C) thereof”, and

(C) in subsection (h), by striking “212(a)(34)” and inserting “212(a)(2)(E)”.

(2) Section 102 (8 U.S.C. 1102) is amended—

(A) by striking “(27)” in paragraphs (1) and (2) and inserting “(3) (other than subparagraph (E))”, and

(B) by striking “paragraphs (27) and (29)” in paragraph (3) and inserting “paragraph (3) (other than subparagraph (E))”.

(3) Section 203(a)(7) (8 U.S.C. 1153(a)(7)) is amended by striking “section 212(a)(14)” and inserting “section 212(a)(5)”.

(4) Sections 207(c)(3) and 209(c) (8 U.S.C. 1157(c)(3), 1159(c)) are each amended—

(A) by striking “(14), (15), (20), (21), (25), and (32)” and inserting “(4), (5), and (7)(A)”, and

(B) by striking “(other than paragraph)” and all that follows through “narcotics)” and inserting “(other than paragraph (2)(C) or subparagraphs (A), (B), (C), or (E) of paragraph (3))”.

(5)²⁷ Section 210 (8 U.S.C. 1160) is amended—

(A) in subsection (a)(3)(B)(i), by striking “212(a)(19)” and inserting “212(a)(6)(C)(i)”,

(B) in subsection (c)(2)(A), by striking “(14), (20), (21), (25), and (32)” and inserting “(5) and (7)(A)”,

(C) in subsection (c)(2)(B)(ii)(I), by striking “Paragraph (9) and (10)” and inserting “Paragraphs (2)(A) and (2)(B)”,

(D) in subsection (c)(2)(B)(ii)(II), by striking “(15)” and inserting “(4)”,

(E) in subsection (c)(2)(B)(ii)(III), by striking “(23)” and inserting “(2)(C)”,

(F) in subsection (c)(2)(B)(ii)(IV), by striking “Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations)”

²⁵ Additional technical corrections to section 241 were made by § 307(k) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1756), effective as if included in this subsection.

²⁶ Additional technical corrections to various provisions were made by § 307(l) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1756-7), effective as if included in this subsection.

²⁷ Note that section 210(b)(7)(B) of the INA was amended, by § 307(j) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1756), by striking “212(a)(19)” and inserting “212(a)(6)(C)(i)”, effective as if included in this paragraph.

and inserting "Paragraph (3) (relating to security and related grounds), other than subparagraph (E) thereof",

(G) in subsection (c)(2)(B)(ii), by striking subclause (V), and

(H) in subsection (c)(2)(C), by striking "212(a)(15)" and inserting "212(a)(4)".

(6) Section 210A(e) (8 U.S.C. 1161(e)) is amended—

(A) in paragraph (1), by striking "(14), (20), (21), (25), and (32)" and inserting "(5) and (7)(A)",

(B) in paragraph (2)(B)(i), by striking "Paragraphs (9) and (10)" and inserting "Paragraphs (2)(A) and (2)(B)",

(C) in paragraph (2)(B)(ii), by striking "(23)" and inserting "(2)(C)",

(D) in paragraph (2)(B)(iii), by striking "(27), (28), and (29) (relating to national security and members of certain organizations)" and inserting "and (3) (relating to security grounds), other than subparagraph (E) thereof",

(E) in paragraph (2)(B)(iv), by striking "(33)" and inserting "(3)(D)", and

(F) in paragraph (2)(C), by striking "212(a)(15)" and inserting "212(a)(4)".

(7) Section 211(b) (8 U.S.C. 1181(b)) is amended by striking "212(a)(20)" and inserting "212(a)(7)(A)".

(8) Section 213 (8 U.S.C. 1183) is amended—

(A) by striking "(7) or (15)" and inserting "(4)", and

(B) by inserting before the period at the end the following: ", irrespective of whether a demand for payment of public expenses has been made".

(9) Section 221(g) (8 U.S.C. 1201(g)) is amended by striking "212(a)(7), or section 212(a)(15)" and inserting "212(a)(4)".

(10) Section 234 (8 U.S.C. 1224) is amended by striking "paragraphs (1), (2), (3), (4), or (5)" and inserting "paragraph (1)" each place it appears.

(11) Section 235 (8 U.S.C. 1225) is amended by striking "paragraph (27), (28), or (29) of section 212(a)" and inserting "subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3)".

(12) Section 236(d) (8 U.S.C. 1226(d)) is amended—

(A) by striking "is afflicted with a disease" and all that follows through "of section 212(a)" and inserting "has a disease, illness, or addiction which would make the alien excludable under paragraph (1) of section 212(a)", and

(B) by striking the last sentence.

(13) Section 245A(d)(2) (8 U.S.C. 1255a(d)(2)) is amended—

(A) in subparagraph (A), by striking "(14), (20), (21), (25), and (32)" and inserting "(5) and (7)(A)",

(B) in subparagraph (B)(i)(I), by striking "Paragraphs (9) and (10)" and inserting "Paragraphs (2)(A) and (2)(B)",

(C) in subparagraph (B)(i)(II), by striking "(15)" and inserting "(4)",

(D) in subparagraph (B)(i)(III), by striking "(23)" and inserting "(2)(C)",

(E) in subparagraph (B)(i)(IV), by striking "(27), (28), and (29) (relating to national security and members of certain organizations)" and inserting "(3) (relating to security and related grounds), other than subparagraph (E) thereof",

(F) in subparagraph (B)(ii), by striking subclause (V),

(G) in subparagraph (B)(ii), by striking "212(a)(15)" and inserting "212(a)(4)", and

(H) in subparagraph (B)(iii), by striking "212(a)(15)" and inserting "212(a)(4)".

(14) Section 249 (8 U.S.C. 1259) is amended by striking "212(a)(33)" and inserting "212(a)(3)(E)".

(15) Section 272 (8 U.S.C. 1322)—

(A) in subsection (a)—

(i) by striking "(1) mentally retarded" and all that follows through "(6) a narcotic drug addict" and inserting "excludable under section 212(a)(1)", and

(ii) by striking "such disease or disability" and inserting "the excluding condition";

(B) by striking subsection (b);

(C) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively; and

(D) by striking "DISABILITY OR AFFLICTED WITH DISEASE" in the heading and inserting "EXCLUSION ON A HEALTH-RELATED GROUND".

(16) Section 277 (8 U.S.C. 1327) is amended by striking "212(a)(9)" and all that follows through "(29)" and inserting "212(a)(2) (insofar as an alien exclud-

able under such section has been convicted of an aggravated felony) or 212(a)(3) (other than subparagraph (E) thereof)".

(17) The item in the table of contents relating to section 272 is amended to read as follows:

"Sec. 272. Bringing in aliens subject to exclusion on a health-related ground."

(18) Section 21 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2691) is repealed.

(19) Section 14 of Public Law 99-396 is repealed.

(20) Section 584(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202) is amended—

(A) by striking "(14), (15), (20), (21), (25), and (32)" and inserting "(4), (5), and (7)(A)", and

(B) by striking "(other than paragraph" and all that follows through "narcotics)" and inserting "(other than paragraph (2)(C) or subparagraph (A), (B), (C), or (D) of paragraph (3))".

(21) Section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204) is repealed.

(22) Section 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended by striking "(14), (15), (20), (21), (25), (28) (other than subparagraph (F)), and (32)" and inserting "(4), (5), and (7)(A)".

(23) Section 301(a)(1) of this Act is amended by striking "on a ground specified" and all that follows through "of such Act)" and inserting "on a ground specified in paragraph (1)(A), (1)(B), (1)(C), (3)(A), of section 241(a) of the Immigration and Nationality Act (other than so much of section 241(a)(1)(A) of such Act as relates to a ground of exclusion described in paragraph (2) or (3) of section 212(a) of such Act)".

(24) Section 244A(c)(2)(A), as inserted by section 302 of this Act, is amended—

(A) in clause (i), by striking "(14), (20), (21), (25), and (32)" and inserting "(5) and (7)(A)";

(B) in clause (iii)(I), by striking "Paragraphs (9) and (10)" and inserting "Paragraphs (2)(A) and (2)(B)";

(C) in clause (iii)(II), by striking "(23)" and inserting "(2)(C)" and by adding "or" at the end;

(D) in clause (iii)(III), by striking "(27) and (29) (relating to national security)" and inserting "(3) (relating to security and related grounds)" and by striking "; or" at the end and inserting a period; and

(E) by striking subclause (IV) of clause (iii).

(b) RELATING TO GROUNDS FOR DEPORTATION.—

(1) Section 210A(d)(5)(A) (8 U.S.C. 1161(d)(5)(A)) is amended by striking "241(a)(20)" and inserting "241(a)(1)(F)".

(2) Section 242 (8 U.S.C. 1252) is amended—

(A) in subsection (b), by striking "(4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)" and inserting "(2), (3), or (4)", and

(B) in subsection (e), by striking "paragraph²⁸ (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)" and inserting "paragraph (2), (3) or (4)".

(3) Sections 243(h)(1) and 244(a) (8 U.S.C. 1253(h)(1), 1254(a)) are each amended by striking "241(a)(19)" and inserting "241(a)(4)(D)".

(4) Section 244 (8 U.S.C. 1254) is amended—

(A) in subsection (a)(2), by striking "paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), or (18)" and inserting "paragraph (2), (3), or (4)", and

(B) in subsection (e)(1), by striking "(4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)" and inserting "(2), (3), or (4)".

(5) Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) is amended—

(A) by striking "paragraph (1), (2), (4), (5), (6), (7), (10), (11), (12), (14), (15), (16), (17), or (18) of section 241(a)" in paragraph (1) and inserting "under section 241(a) (other than under paragraph (1)(C) or (1)(E) thereof)", and

²⁸Should have stricken "paragraphs". This was corrected by § 307(m)(2) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1757), effective as if included in this subsection.

(B) by striking "enumerated in paragraph (1) in this subsection" in paragraph (2) and inserting "(other than under paragraph (1)(C) or (1)(E) thereof)".

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. BATTERED SPOUSE OR CHILD WAIVER OF THE CONDITIONAL RESIDENCE REQUIREMENT.

- (a) IN GENERAL.—Section 216(c)(4) (8 U.S.C. 1186a(c)(4)) is amended—
- (1) by striking "or" at the end of subparagraph (A);
 - (2) in subparagraph (B), by striking "by the alien spouse for good cause";
 - (3) in subparagraph (B), by striking the period at the end and inserting "or";
 - (4) by inserting after subparagraph (B) the following new subparagraph:

"(C) the qualifying marriage was entered into in good faith by the alien spouse and during the marriage the alien spouse or child was battered by or was the subject of extreme cruelty perpetrated by his or her spouse or citizen or permanent resident parent and the alien was not at fault in failing to meet the requirements of paragraph (1)."; and
 - (5) by adding at the end the following: "The Attorney General shall, by regulation, establish measures to protect the confidentiality of information concerning any abused alien spouse or child, including information regarding the whereabouts of such spouse or child."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to marriages entered into before, on, or after the date of the enactment of this Act.

SEC. 702. BONA FIDE MARRIAGE EXCEPTION TO FOREIGN RESIDENCE REQUIREMENT FOR MARRIAGES ENTERED INTO DURING CERTAIN IMMIGRATION PROCEEDINGS.

- (a) IN GENERAL.—Section 245(e) (8 U.S.C. 1255(e)) is amended—
- (1) in paragraph (1), by striking "An alien" and inserting "Except as provided in paragraph (3), an alien", and
 - (2) [Omitted; added paragraph (3) at the end of section 245(e).]
- (b) CONFORMING AMENDMENT.—Section 204(g) (8 U.S.C. 1154(g)), as redesignated by section 162(b)(6) of this Act, is amended by inserting "except as provided in section 245(e)(3)," after "Notwithstanding subsection (a),".
- (c) EFFECTIVE DATE.—The amendments made by this section shall apply to marriages entered into before, on, or after the date of the enactment of this Act.

SEC. 703. 1-YEAR EXTENSION OF DEADLINE FOR FILING APPLICATIONS FOR ADJUSTMENT FROM TEMPORARY TO PERMANENT [sic] RESIDENCE FOR LEGALIZED ALIENS.

- (a) IN GENERAL.—Section 245A(b) (8 U.S.C. 1255a(b)) is amended—
- (1) in paragraph (1)(A), by striking "one-year period" and inserting "2-year period", and
 - (2) in paragraph (2)(C), by striking "thirty-first" and inserting "43rd".
- (b) LATE FEE.—Section 245A(c)(7)(A) (8 U.S.C. 1255a(c)(7)(A)) is amended by adding at the end the following: "The Attorney General shall provide for an additional fee for filing an application for adjustment under subsection (b)(1) after the end of the first year of the 2-year period described in subsection (b)(1)(A)."

SEC. 704. COMMISSION ON AGRICULTURAL WORKERS.

- (a) 1-YEAR EXTENSION.—Section 304 of the Immigration Reform and Control Act of 1986 (Public Law 99-603) is amended—
- (1) in subsection (c), by striking "five" and inserting "six", and
 - (2) in subsection (i), by striking "63" and inserting "75".
- (b) STAFF.—Subsection (f) of such section is amended by striking "competitive service" and inserting "and compensation and other conditions of service in the civil service".

SEC. 705. IMMIGRATION EMERGENCY FUND.

- (a) IN GENERAL.—Section 404(b) (8 U.S.C. 1101 note) is amended—
- (1) by inserting "(1)" after "(b)",
 - (2) by inserting "(for fiscal year 1991 and any subsequent fiscal year)" after "appropriated",
 - (3) by striking "\$35,000,000" and inserting "an amount sufficient to provide for a balance of \$35,000,000 in such fund",
 - (4) by inserting "to carry out paragraph (2) and" after "to be used", and
 - (5) [Omitted; added paragraph (2) at the end of section 404(b).]

(b) **EFFECTIVE DATE.**—Section 404(b)(2)(A)(i) of the Immigration and Nationality Act, as added by the amendment made by subsection (a)(5), shall apply with respect to increases in the number of asylum applications filed in a calendar quarter beginning on or after January 1, 1989. The Attorney General may not spend any amounts from the immigration emergency fund pursuant to the amendments made by subsection (a) before October 1, 1991.

TITLE VIII—EDUCATION AND TRAINING

SEC. 801. EDUCATIONAL ASSISTANCE AND TRAINING.

(a) **USE OF FUND.**—The Secretary of Labor shall provide for grants to States to provide educational assistance and training for United States workers. The Secretary shall consult with the Secretary of Education in making grants under this section.

(b) **ALLOCATION OF FUNDS.**—Within the purposes described in subsection (a), funds in the account used under this section shall be allocated among the States based on a formula, established jointly by the Secretaries of Labor and Education, that takes into consideration—

- (1) the location of foreign workers admitted into the United States,
- (2) the location of individuals in the United States requiring and desiring the educational assistance and training for which the funds can be applied, and
- (3) the location of unemployed and underemployed United States workers.

(c) **DISBURSEMENT TO STATES.**—

(1) Within the purposes and allocations established under this section, disbursements shall be made to the States, in accordance with grant applications submitted to and approved jointly by the Secretaries of Labor and Education, to be applied in a manner consistent with the guidelines established by such Secretaries in consultation with the States. In applying such grants, the States shall consider providing funding to joint labor-management trust funds and other such non-profit organizations which have demonstrated capability and experience in directly training and educating workers.

(2) Not more than 5 percent of the funds disbursed to any State under this section may be used for administrative expenses.

(d) **LIMITATION ON FEDERAL OVERHEAD.**—The Secretaries shall provide that not more than 2 percent of the amount of funds disbursed to States under this section may be used by the Federal Government in the administration of this section.

(e) **ANNUAL REPORT.**—The Secretary of Labor shall report annually to the Congress on the grants to States provided under this section.

(f) **STATE DEFINED.**—In this section, the term “State” has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

2. SELECTED PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT BEFORE REVISION BY THE IMMIGRATION ACT OF 1990 (PUBLIC LAW 101-649, NOV. 29, 1990)

Section 101(a)(27)(C) of the INA (before revision by § 151(a) of P.L. 101-649):

(C)(i) an immigrant who continuously for at least two years immediately preceding the time of his application for admission to the United States has been, and who seeks to enter the United States solely for the purpose of carrying on the vocation of minister of a religious denomination, and whose services are needed by such religious denomination having a bona fide organization in the United States; and (ii) the spouse or the child of any such immigrant, if accompanying or following to join him;

Section 201 of the INA (before revision by § 101(a) of P.L. 101-649):

NUMERICAL LIMITATIONS

SEC. 201. (a) Exclusive of special immigrants defined in section 101(a)(27), immediate relatives specified in subsection (b) of this section, and aliens who are admitted or granted asylum under section 207 or 208, the number of aliens born in any foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, shall not in any of the first three quarters of any fiscal year exceed a total of seventy-two thousand and shall not in any fiscal year exceed two hundred and seventy thousand: *Provided*, That to the extent that in a particular fiscal year the number of aliens who are issued immigrant visas or who may otherwise acquire the status of aliens lawfully admitted for permanent residence, and who are subject to the numerical limitations of this section, together with the aliens who adjust their status to aliens lawfully admitted for permanent residence pursuant to subparagraph (H) of section 101(a)(27) or section 19 of the Immigration and Nationality Amendments Act of 1981, exceed the annual numerical limitation in effect pursuant to this section for such year, the Secretary of State shall reduce to such extent the annual numerical limitation in effect pursuant to this section for the following fiscal year.

(b) The "immediate relatives" referred to in subsection (a) of this section shall mean the children, spouses, and parents of a citizen of the United States: *Provided*, That in the case of parents, such citizen must be at least twenty-one years of age. The immediate relatives specified in this subsection who are otherwise qualified for admission as immigrants shall be admitted as such, without regard to the numerical limitations in this Act.

Section 202 of the INA (before revision by § 102 of P.L. 101-649):

SEC. 202. (a) No person shall receive any preference or priority or be discriminated against in the issuance of an immigrant visa because of his race, sex, nationality, place of birth, or place of residence, except as specifically provided in section 101(a)(27), section 201(b), and section 203: *Provided*, That the total number of immigrant visas made available to natives of any single foreign state under paragraphs (1) through (7) of section 203(a) shall not exceed 20,000 in any fiscal year: *And provided further*, That to the extent that in a particular fiscal year the number of such natives who are issued immigrant visas or who may otherwise acquire the status of aliens lawfully admitted for permanent residence and who are subject to the numerical limitation of this section, together with the aliens from the same foreign state who adjust their status to aliens lawfully admitted for permanent residence pursuant to subparagraph (H) of section 101(a)(27) or section 19 of the Immigration and Nationality Amendments Act of 1981, exceed the numerical limitation in effect for such year pursuant to this section, the Secretary of State shall reduce to such extent the numerical limitation in effect for the natives of the same foreign state pursuant to this section for the following fiscal year.

(b) Each independent country, self-governing dominion, mandated territory, and territory under the international trusteeship system of the United Nations, other than the United States and its outlying possessions, shall be treated as a separate foreign state for the purposes of the numerical limitation set forth in the proviso to subsection (a) of this section when approved by the Secretary of State. All other inhabited lands shall be attributed to a foreign state specified by the Secretary of State. For the purposes of this Act the foreign state to which an immigrant is chargeable shall be determined by birth within such foreign state except that (1) an alien child, when accompanied by or following to join his alien parent or parents, may be charged to the foreign state of either parent if such parent has received or would be qualified for an immigrant visa, if necessary to prevent the separation of the child from the parent or parents, and if immigration charged to the foreign state to which such parent has been or would be chargeable has not reached the numerical limitation set forth in the proviso to subsection (a) of this section for that fiscal year; (2) if an alien is chargeable to a different foreign state from that of his spouse, the foreign state to which such alien is chargeable may, if necessary to prevent the separation of husband and wife, be determined by the foreign state of the spouse he is accompanying or following to join, if such spouse has received or would be qualified for an immigrant visa and if immigration charged to the foreign state to which such spouse has been or would be chargeable has not reached the numerical

limitation set forth in the proviso to subsection (a) for that fiscal year; (3) an alien born in the United States shall be considered as having been born in the country of which he is a citizen or subject, or, if he is not a citizen or subject of any country, in the last foreign country in which he had his residence as determined by the consular officer; and (4) an alien born within any foreign state in which neither of his parents was born and in which neither of his parents had a residence at the time of such alien's birth may be charged to the foreign state of either parent.

(c) Any immigrant born in a colony or other component or dependent area of a foreign state overseas from the foreign state, other than a special immigrant, as defined in section 101(a)(27), or an immediate relative of a United States citizen, as defined in section 201(b), shall be chargeable for the purpose of the limitation set forth in subsection (a), to the foreign state, and the number of immigrant visas available to each such colony or other component or dependent area shall not exceed 5,000 in any one fiscal year.

(d) In the case of any change in the territorial limits of foreign states, the Secretary of State shall, upon recognition of such change, issue appropriate instructions to all diplomatic and consular offices.

(e) Whenever the maximum number of visas have been made available under this section to natives of any single foreign state as defined in subsection (b) of this section or any dependent area as defined in subsection (c) of this section in any fiscal year, in the next following fiscal year a number of visas, not to exceed 20,000, in the case of a foreign state or 5,000 in the case of a dependent area, shall be made available and allocated as follows:

(1) Visas shall first be made available, in a number not to exceed 20 per centum of the number specified in this subsection, to qualified immigrants who are the unmarried sons or daughters of citizens of the United States.

(2) Visas shall next be made available, in a number not to exceed 26 per centum of the number specified in this subsection, plus any visas not required for the classes specified in paragraph (1), to qualified immigrants who are the spouses, unmarried sons, or unmarried daughters of an alien lawfully admitted for permanent residence.

(3) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in this subsection, to qualified immigrants who are members of the professions, or who because of their exceptional ability in the sciences or the arts will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States, and whose services in the professions, sciences, or arts are sought by an employer in the United States.

(4) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in this subsection, plus any visas not required for the classes specified in paragraphs (1) through (3), to qualified immigrants who are the married sons or the married daughters of citizens of the United States.

(5) Visas shall next be made available, in a number not to exceed 24 per centum of the number specified in this subsection, plus any visas not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are the brothers or sisters of citizens of the United States, provided such citizens are at least twenty-one years of age.

(6) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in this subsection, to qualified immigrants capable of performing specified skilled or unskilled labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States.

(7) Visas so allocated but not required for the classes specified in paragraphs (1) through (6) shall be made available to other qualified immigrants strictly in the chronological order in which they qualify.

Section 203 of the INA (before revision by §§ 111, 121(a), 131, & 162(a) of P.L. 101-649):

ALLOCATION OF IMMIGRANT VISAS

SEC. 203. (a) Aliens who are subject to the numerical limitations specified in section 201(a) shall be allotted visas as follows:

(1) Visas shall be first made available, in a number not to exceed 20 per centum of the number specified in section 201(a), to qualified immigrants who are the unmarried sons or daughters of citizens of the United States.

(2) Visas shall next be made available, in a number not to exceed 26 per centum of the number specified in section 201(a), plus any visas not required for the classes specified in paragraph (1), to qualified immigrants who are the spouses, unmarried sons or unmarried daughters of an alien lawfully admitted for permanent residence.

(3) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in section 201(a), to qualified immigrants who are members of the professions, or who because of their exceptional ability in the sciences or the arts will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States, and whose services in the professions, sciences, or arts are sought by an employer in the United States.

(4) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in section 201(a), plus any visas not required for the classes specified in paragraphs (1) through (3), to qualified immigrants who are the married sons or the married daughters of citizens of the United States.

(5) Visas shall next be made available, in a number not to exceed 24 per centum of the number specified in section 201(a), plus any visas not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are the brothers or sisters of citizens of the United States, provided such citizens are at least twenty-one years of age.

(6) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in section 201(a), to qualified immigrants who are capable of performing specified skilled or unskilled labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States.

(7) Visas authorized in any fiscal year, less those required for issuance to the classes specified in paragraphs (1) through (6), shall be made available to other qualified immigrants strictly in the chronological order in which they qualify. Waiting lists of applicants shall be maintained in accordance with regulations prescribed by the Secretary of State. No immigrant visa shall be issued to a nonpreference immigrant under this paragraph, or to an immigrant with a preference under paragraph (3) or (6) of this subsection, until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).¹ No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (A) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States; and (B) the child has been irrevocably released for immigration and adoption: *Provided*, That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under the age of sixteen except a child who is accompanying or following to join his natural parent.

(8) A spouse or child as defined in section 101(b)(1) (A), (B), (C), (D), or (E) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under paragraphs (1) through (7), be entitled to the same status, and the same order of consideration provided in subsection (b), if accompanying, or following to join, his spouse or parent.

(b) In considering applications for immigrant visas under subsection (a) consideration shall be given to applicants in the order in which the classes of which they are members are listed in subsection (a).

(c) Immigrant visas issued pursuant to paragraphs (1) through (6) of subsection (a) shall be issued to eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204.

(d) Every immigrant shall be presumed to be a nonpreference immigrant until he establishes to the satisfaction of the consular officer and the immigration officer that he is entitled to a preference status under paragraphs (1) through (6) of subsection (a), or to a special immigrant status under section 101(a)(27), or that he is an immediate relative of a United States citizen as specified in section 201(b). In

¹ § 603(a)(3) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5082) substituted reference to § 212(a)(5) for § 212(a)(14), effective June 1, 1991, pursuant to § 601(e)(1) of that Act.

the case of any alien claiming in his application for an immigrant visa to be an immediate relative of a United States citizen as specified in section 201(b) or to be entitled to preference immigrant status under paragraphs (1) through (6) of subsection (a), the consular officer shall not grant such status until he has been authorized to do so as provided by section 204.

(e) For the purposes of carrying out his responsibilities in the orderly administration of this section, the Secretary of State is authorized to make reasonable estimates of the anticipated numbers of visas to be issued during any quarter of any fiscal year within each of the categories of subsection (a), and to rely upon such estimates in authorizing the issuance of such visas. The Secretary of State shall terminate the registration of any alien who fails to apply for an immigrant visa within one year following notification to him of the availability of such visa, but the Secretary shall reinstate the registration of any such alien who establishes within two years following notification of the availability of such visa that such failure to apply was due to circumstances beyond his control. Upon such termination the approval of any petition approved pursuant to section 204(b) shall be automatically revoked.

Section 204(a)(1) of the INA (before revision by § 161(b)(1) of P.L. 101-649):

SEC. 204. (a)(1) Any citizen of the United States claiming that an alien is entitled to a preference status by reason of a relationship described in paragraph (1), (4), or (5) of section 203(a), or to an immediate relative status under section 201(b), or any alien lawfully admitted for permanent residence claiming that an alien is entitled to a preference status by reason of the relationship described in section 203(a)(2), or any alien desiring to be classified as a preference immigrant under section 203(a)(3) (or any person on behalf of such an alien), or any person desiring and intending to employ within the United States an alien entitled to classification as a preference immigrant under section 203(a)(6), may file a petition with the Attorney General for such classification. The petition shall be in such form as the Attorney General may by regulations prescribe and shall contain such information and be supported by such documentary evidence as the Attorney General may require. The petition shall be made under oath administered by any individual having authority to administer oaths, if executed in the United States, but, if executed outside the United States, administered by a consular officer or an immigration officer.

Section 212 of the INA (before revision by §§ 601(a) & 603(a) of P.L. 101-649):

GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM
ADMISSION; WAIVERS OF INADMISSIBILITY

SEC. 212. [8 U.S.C. 1182] (a) Except as otherwise provided in this Act, the following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States:

- (1) Aliens who are mentally retarded;
- (2) Aliens who are insane;
- (3) Aliens who have had one or more attacks of insanity;
- (4) Aliens afflicted with psychopathic personality, or sexual deviation, or a mental defect;
- (5) Aliens who are narcotic drug addicts or chronic alcoholics;
- (6) Aliens who are afflicted with any dangerous contagious disease;
- (7) Aliens not comprehended within any of the foregoing classes who are certified by the examining surgeon as having a physical defect, disease, or disability, when determined by the consular or immigration officer to be of such a nature that it may affect the ability of the alien to earn a living, unless the alien affirmatively establishes that he will not have to earn a living;
- (8) Aliens who are paupers, professional beggars, or vagrants;
- (9) Aliens who have been convicted of a crime involving moral turpitude (other than a purely political offense), or aliens who admit having committed such a crime, or aliens who admit committing acts which constitute the essential elements of such a crime; except that aliens who have committed only one such crime while under the age of eighteen years may be granted a visa and admitted if the crime was committed more than five years prior to the date of the application for a visa or other documentation, and more than five years prior to date of application for admission

to the United States, unless the crime resulted in confinement in a prison or correctional institution, in which case such alien must have been released from such confinement more than five years prior to the date of the application for a visa or other documentation, and for admission, to the United States. An alien who would be excludable because of the conviction of an offense for which the sentence actually imposed did not exceed a term of imprisonment in excess of six months, or who would be excludable as one who admits the commission of an offense for which a sentence not to exceed one year's imprisonment might have been imposed on him, may be granted a visa and admitted to the United States if otherwise admissible: *Provided*, That the alien has committed only one such offense, or admits the commission of acts which constitute the essential elements of only one such offense.

(10) Aliens who have been convicted of two or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement actually imposed were five years or more;

(11) Aliens who are polygamists or who practice polygamy or advocate the practice of polygamy;

(12) Aliens who are prostitutes or who have engaged in prostitution, or aliens coming to the United States solely, principally, or incidentally to engage in prostitution; aliens who directly or indirectly procure or attempt to procure, or who have procured or attempted to procure or to import, prostitutes or persons for the purpose of prostitution or for any other immoral purpose; and aliens who are or have been supported by, or receive or have received, in whole or in part, the proceeds of prostitution or aliens coming to the United States to engage in any other unlawful commercialized vice, whether or not related to prostitution;

(13) Aliens coming to the United States to engage in any immoral sexual act;

(14) Aliens seeking to enter the United States, for the purpose of performing skilled or unskilled labor, unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that (A) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts), and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and (B) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly employed. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in section 203(a) (3) and (6), and to nonpreference immigrant aliens described in section 203(a)(7);

(15) Aliens who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission, are likely at any time to become public charges;

(16) Aliens who have been excluded from admission and deported and who again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a place outside the United States or their attempt to be admitted from foreign contiguous territory the Attorney General has consented to their reapplying for admission;

(17) Aliens who have been arrested and deported, or who have fallen into distress and have been removed pursuant to this or any prior act, or who have been removed as alien enemies, or who have been removed at Government expense in lieu of deportation pursuant to section 242(b), and who seek admission within five years (or within ten² years in the case of an alien convicted of an aggravated felony) of the date of such deportation or removal, unless prior to their embarkation or reembarkation at a place outside the United States or their attempt to be admitted from foreign contiguous territory the Attorney General has consented to their applying or reapplying for admission;

(18) Aliens who are stowaways;

(19) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure, or has sought to procure or has procured, a visa, other documentation, or entry into the United States or other benefit provided under this Act;

(20) Except as otherwise specifically provided in this Act, any immigrant who at the time of application for admission is not in possession of a valid unexpired

²The parenthetical phrase was inserted by § 7349(a) of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690, 102 Stat. 4473), applicable to any alien convicted of an aggravated felony who seeks admission to the United States on or after November 18, 1988. § 514(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5053) struck "10 years" and inserted "20 years", applicable to admissions occurring on or after January 1, 1991.

immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Attorney General pursuant to section 211(a);

(21) Except as otherwise specifically provided in this Act, any immigrant at the time of application for admission whose visa has been issued without compliance with the provisions of section 203;

(22) Aliens who are ineligible to citizenship, except aliens seeking to enter as nonimmigrants; or persons who have departed from or who have remained outside the United States to avoid or evade training or service in the armed forces in time of war or a period declared by the President to be a national emergency, except aliens who were at the time of such departure nonimmigrant aliens and who seek to reenter the United States as nonimmigrants;

(23) Any alien who—

(A) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

(B) the consular officers or immigration officers know or have reason to believe is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such controlled substance;

[(24) Previously repealed.]

(25) Aliens (other than aliens who have been lawfully admitted for permanent residence and who are returning from a temporary visit abroad) over sixteen years of age, physically capable of reading, who cannot read and understand some language or dialect;

(26) Any nonimmigrant who is not in possession of (A) a passport valid for a minimum period of six months from the date of the expiration of the initial period of his admission or contemplated initial period of stay authorizing him to return to the country from which he came or to proceed to and enter some other country during such period; and (B) at the time of application for admission a valid nonimmigrant visa or border crossing identification card;

(27) Aliens who the consular officer or the Attorney General knows or has reason to believe seek to enter the United States solely, principally, or incidentally to engage in activities which would be prejudicial to the public interest, or endanger the welfare, safety, or security of the United States;

(28) Aliens who are, or at any time have been, members of any of the following classes:

(A) Aliens who are anarchists;

(B) Aliens who advocate or teach, or who are members of or affiliated with any organization that advocates or teaches, opposition to all organized government;

(C) Aliens who are members of or affiliated with (i) the Communist Party of the United States, (ii) any other totalitarian party of the United States, (iii) the Communist Political Association, (iv) the Communist or any other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state, (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party, or (vi) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt: *Provided*, That nothing in this paragraph, or in any other provision of this Act, shall be construed as declaring that the Communist Party does not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means;

(D) Aliens not within any of the other provisions of this paragraph who advocate the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who are members of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under the authority of such organization or paid for by the funds of, or funds furnished by, such organization;

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered

or required to be registered under section 7 of the Subversive Activities Control Act of 1950, unless such aliens establish that they did not have knowledge or reason to believe at the time they became members of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization;

(F) Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage;

(G) Aliens who write or publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating or teaching (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage; or (v) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship;

(H) Aliens who are members of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in paragraph (G);

(I) Any alien who is within any of the classes described in subparagraphs (B), (C), (D), (E), (F), (G), and (H) of this paragraph because of membership in or affiliation with a party or organization or a section, subsidiary, branch, affiliate, or subdivision thereof, may, if not otherwise ineligible, be issued a visa if such alien establishes to the satisfaction of the consular officer when applying for a visa and the consular officer finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and where necessary for such purposes, or (ii)(a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for a visa, actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. Any such alien to whom a visa has been issued under the provisions of this subparagraph may, if not otherwise inadmissible, be admitted into the United States if he shall establish to the satisfaction of the Attorney General when applying for admission to the United States and the Attorney General finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and when necessary for such purposes, or (ii)(a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for admission actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. The Attorney General shall promptly make a detailed report to the Congress in the case of each alien who is or shall be admitted into the United States under (ii) of this subparagraph;

(29) Aliens with respect to whom the consular officer or the Attorney General knows or has reasonable ground to believe probably would, after entry, (A) engage in activities which would be prohibited by the laws of the United States relating to espionage, sabotage, public disorder, or in other activity subversive to the na-

tional security, (B) engage in any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States, by force, violence, or other unconstitutional means, or (C) join, affiliate with, or participate in the activities of any organization which is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950;

(30) Any alien accompanying another alien ordered to be excluded and deported and certified to be helpless from sickness or mental or physical disability or infancy pursuant to section 237(e), whose protection or guardianship is required by the alien ordered excluded and deported;

(31) Any alien who at any time shall have, knowingly and for gain, encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law;

(32) Aliens who are graduates of a medical school not accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States) and are coming to the United States principally to perform services as members of the medical profession, except such aliens who have passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health and Human Services) and who are competent in oral and written English. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in section 203(a) (3) and (6) and to nonpreference immigrant aliens described in section 203(a)(7). For the purposes of this paragraph, an alien who is a graduate of a medical school shall be considered to have passed parts I and II of the National Board of Medical Examiners examination if the alien was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date;

(33) Any alien who during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

(A) the Nazi government in Germany,

(B) any government in any area occupied by the military forces of the Nazi government of Germany,

(C) any government established with the assistance or cooperation of the Nazi government of Germany, or

(D) any government which was an ally of the Nazi government of Germany, ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion;

(34)³ Any alien who has committed in the United States any serious criminal offense, as defined in section 101(h), for whom immunity from criminal jurisdiction was exercised with respect to that offense, who as a consequence of the offense and the exercise of immunity has departed the United States, and who has not subsequently submitted fully to the jurisdiction of the court in the United States with jurisdiction over the offense.

(b) The provisions of paragraph (25) of subsection (a) shall not be applicable to any alien who (1) is the parent, grandparent, spouse, daughter, or son of an admissible alien, or any alien lawfully admitted for permanent residence, or any citizen of the United States, if accompanying such admissible alien, or coming to join such citizen or alien lawfully admitted, and if otherwise admissible, or (2) proves that he is seeking admission to the United States to avoid religious persecution in the country of his last permanent residence, whether such persecution be evidenced by overt acts or by laws or governmental regulations that discriminate against such alien or any group to which he belongs because of his religious faith. For the purpose of ascertaining whether an alien can read under paragraph (25) of subsection (a), the consular officers and immigration officers shall be furnished with slips of uniform size, prepared under direction of the Attorney General, each containing not less than thirty nor more than forty words in ordinary use, printed in plainly legible type, in one of the various languages or dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made and shall be required to read and understand the words printed on the slip in such language or dialect.

(c) Aliens lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation, and who are returning to a lawful unrelinquished domicile of seven consecutive years, may be admitted in the discretion of the Attorney General without regard to the provisions of paragraph (1) through (25) and paragraphs (30) and (31) of subsection (a). Nothing contained

³ §131(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Pub. L. 101-246, Feb. 16, 1990, 104 Stat. 31) added paragraph (34).

in this subsection shall limit the authority of the Attorney General to exercise the discretion vested in him under section 211(b).⁴

(d)(1) The provisions of paragraphs (11) and (25) of subsection (a) shall not be applicable to any alien who in good faith is seeking to enter the United States as a nonimmigrant.

(2) The provisions of paragraph (28) of subsection (a) of this section shall not be applicable to any alien who is seeking to enter the United States temporarily as a nonimmigrant under paragraph (15)(A)(iii) or (15)(G)(v) of section 101(a).

(3) Except as provided in this subsection, an alien (A) who is applying for a nonimmigrant visa and is known or believed by the consular officer to be ineligible for such visa under one or more of the paragraphs enumerated in subsection (a) (other than paragraphs (27), (29), and (33)), may, after approval by the Attorney General of a recommendation by the Secretary of State or by the consular officer that the alien be admitted temporarily despite his inadmissibility, be granted such a visa and may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General, or (B) who is inadmissible under one or more of the paragraphs enumerated in subsection (a) (other than paragraphs (27), (29), and (33)), but who is in possession of appropriate documents or is granted a waiver thereof and is seeking admission, may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General.

(4) Either or both of the requirements of paragraph (26) of subsection (a) may be waived by the Attorney General and the Secretary of State acting jointly (A) on the basis of unforeseen emergency in individual cases, or (B) on the basis of reciprocity with respect to nationals of foreign contiguous territory or of adjacent islands and residents thereof having a common nationality with such nationals, or (C) in the case of aliens proceeding in immediate and continuous transit through the United States under contracts authorized in section 238(c).

(5)(A) The Attorney General may, except as provided in subparagraph (B) or in section 214(f), in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

(B) The Attorney General may not parole into the United States an alien who is a refugee unless the Attorney General determines that compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States rather than be admitted as a refugee under section 207.

(6) The Attorney General shall prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of excludable aliens applying for temporary admission under this subsection.

(7) The provisions of subsection (a) of this section, except paragraphs (20), (21), and (26), shall be applicable to any alien who shall leave Guam, Puerto Rico, or the Virgin Islands of the United States, and who seeks to enter the continental United States or any other place under the jurisdiction of the United States. Any alien described in this paragraph, who is excluded from admission to the United States, shall be immediately deported in the manner provided by section 237(a) of this Act.

(8) Upon a basis of reciprocity accredited officials of foreign governments, their immediate families, attendants, servants, and personal employees may be admitted in immediate and continuous transit through the United States without regard to the provisions of this section except paragraphs (26), (27), and (29) of subsection (a) of this section.

(9) The provisions of paragraph (7) of subsection (a) shall not be applicable to any alien who is seeking to enter the United States as a special immigrant under subparagraph (E), (F), or (G) of section 101(a)(27).

(10) The provisions of paragraph (15) of subsection (a) shall not be applicable to any alien who is seeking to enter the United States as a special immigrant under subparagraph (E), (F), or (G) of section 101(a)(27) and who applies for admission as such a special immigrant not later than March 31, 1982.

(e) No person admitted under section 101(a)(15)(J) or acquiring such status after admission (i) whose participation in the program for which he came to the

⁴ § 511(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5052) added the following sentence, applicable to admissions occurring after November 29, 1990: "The first sentence of this subsection shall not apply to an alien who has been convicted of an aggravated felony and has served a term of imprisonment of at least 5 years."

United States was financed in whole or in part, directly or indirectly, by an agency of the Government of the United States or by the government of the country of his nationality or his last residence, (ii) who at the time of admission or acquisition of status under section 101(a)(15)(J) was a national or resident of a country which the Director of the United States Information Agency pursuant to regulations prescribed by him, had designated as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien was engaged, or (iii) who came to the United States or acquired such status in order to receive graduate medical education or training, shall be eligible to apply for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 101(a)(15)(H) or section 101(a)(15)(L) until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of a least two years following departure from the United States: *Provided*, That upon the favorable recommendation of the Director, pursuant to the request of an interested United States Government agency, or of the Commissioner of Immigration and Naturalization after he has determined that departure from the United States would impose exceptional hardship upon the alien's spouse or child (if such spouse or child is a citizen of the United States or a lawfully resident alien), or that the alien cannot return to the country of his nationality or last residence because he would be subject to persecution on account of race, religion, or political opinion, the Attorney General may waive the requirement of such two-year foreign residence abroad in the case of any alien whose admission to the United States is found by the Attorney General to be in the public interest: *And provided further*, That, except in the case of an alien described in clause (iii), the Attorney General may, upon the favorable recommendation of the Director, waive such two-year foreign residence requirement in any case in which the foreign country of the alien's nationality or last residence has furnished the Director a statement in writing that it has no objection to such waiver in the case of such alien.

(f) Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate.

(g) Any alien who is excludable from the United States under paragraph (1) of subsection (a) of this section, or any alien afflicted with tuberculosis in any form who (A) is the spouse or the unmarried son or daughter, or the minor unmarried lawfully adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or of an alien who has been issued an immigrant visa, or (B) has a son or daughter who is a United States citizen, or an alien lawfully admitted for permanent residence, or an alien who has been issued an immigrant visa, shall, if otherwise admissible, be issued a visa and admitted to the United States for permanent residence in accordance with such terms, conditions, and controls, if any, including the giving of a bond, as the Attorney General, in his discretion after consultation with the Secretary of Health and Human Services, may by regulations prescribe. Any alien excludable under paragraph (3) of subsection (a) of this section because of past history of mental illness who has one of the same family relationships as are prescribed in this subsection for aliens afflicted with tuberculosis and whom the Secretary of Health and Human Services finds to have been free of such mental illness for a period of time sufficient in the light of such history to demonstrate recovery shall be eligible for a visa in accordance with the terms of this subsection.

(h) Any alien, who is excludable from the United States under paragraph (9), (10), (12), or (34)⁵ of subsection (a) or paragraph (23) of such subsection as such paragraph relates to a single offense of simple possession of 30 grams or less of marijuana, who (A) is the spouse or child, including a minor unmarried adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or (B) has a son or daughter who is a United States citizen or an alien lawfully admitted for permanent residence, shall, if otherwise admissible, be issued a visa and admitted to the United States for permanent residence (1) if it shall be established to the satisfaction of the Attorney General that (A) the alien's exclusion would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, or son or daughter of such alien, and (B) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United

⁵Subsection (h) was amended by §131(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Pub. L. 101-246, Feb. 16, 1990, 104 Stat. 31) by striking "or (12)" and inserting "(12), or (34)".

States; and (2) if the Attorney General, in his discretion, and pursuant to such terms, conditions, and procedures as he may by regulations prescribe, has consented to the alien's applying or reapplying for a visa and for admission to the United States.

(i) Any alien who is the spouse, parent, or child of a United States citizen or of an alien lawfully admitted for permanent residence and who is excludable because (1) he seeks, has sought to procure, or has procured, a visa or other documentation, or entry into the United States, or other benefit under this Act by fraud or misrepresentation, or (2) he admits the commission of perjury in connection therewith, may be granted a visa and admitted to the United States for permanent residence, if otherwise admissible, if the Attorney General in his discretion has consented to the alien's applying or reapplying for a visa and for admission to the United States.

(j)(1) The additional requirements referred to in section 101(a)(15)(J) for an alien who is coming to the United States under a program under which he will receive graduate medical education or training are as follows:

(A) A school of medicine or of one of the other health professions, which is accredited by a body or bodies approved for the purpose by the Secretary of Education, has agreed in writing to provide the graduate medical education or training under the program for which the alien is coming to the United States or to assume responsibility for arranging for the provision thereof by an appropriate public or nonprofit private institution or agency, except that, in the case of such an agreement by a school of medicine, any one or more of its affiliated hospitals which are to participate in the provision of the graduate medical education or training must join in the agreement.

(B) Before making such agreement, the accredited school has been satisfied that the alien (i) is a graduate of a school of medicine which is accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States); or (ii)(I) has passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health and Human Services), (II) has competency in oral and written English, (III) will be able to adapt to the educational and cultural environment in which he will be receiving his education or training, and (IV) has adequate prior education and training to participate satisfactorily in the program for which he is coming to the United States. For the purposes of this subparagraph, an alien who is a graduate of a medical school shall be considered to have passed parts I and II of the National Board of Medical Examiners examination if the alien was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date.

(C) The alien has made a commitment to return to the country of his nationality or last residence upon completion of the education or training for which he is coming to the United States, and the government of the country of his nationality or last residence has provided a written assurance, satisfactory to the Secretary of Health and Human Services, that there is a need in that country for persons with the skills the alien will acquire in such education or training.

(D) The duration of the alien's participation in the program of graduate medical education or training for which the alien is coming to the United States is limited to the time typically required to complete such program, as determined by the Director of the International Communication Agency at the time of the alien's entry into the United States, based on criteria which are established in coordination with the Secretary of Health and Human Services and which take into consideration the published requirements of the medical specialty board which administers such education or training program; except that—

(i) such duration is further limited to seven years unless the alien has demonstrated to the satisfaction of the Director that the country to which the alien will return at the end of such specialty education or training has an exceptional need for an individual trained in such specialty, and

(ii) the alien may, once and not later than two years after the date the alien enters the United States as an exchange visitor or acquires exchange visitor status, change the alien's designated program of graduate medical education or training if the Director approves the change and if a commitment and written assurance with respect to the alien's new program have been provided in accordance with subparagraph (C).

(E) The alien furnishes the Attorney General each year with an affidavit (in such form as the Attorney General shall prescribe) that attests that the

alien (i) is in good standing in the program of graduate medical education or training in which the alien is participating, and (ii) will return to the country of his nationality or last residence upon completion of the education or training for which he came to the United States.

(2)(A) Except as provided in subparagraph (B), the requirements of subparagraphs (A) and (B)(iii)(I) of paragraph (1) shall not apply between the effective date of this subsection and December 31, 1983, to any alien who seeks to come to the United States to participate in an accredited program of graduate medical education or training if (i) the Secretary of Health and Human Services determines, on a case-by-case basis, that there would be a substantial disruption in the health services provided in such program because such alien was not permitted, because of his failure to meet such requirements, to enter the United States to participate in such program, and (ii) the program has a comprehensive plan to reduce reliance on alien physicians, which plan the Secretary of Health and Human Services finds, in accordance with criteria published by the Secretary, to be satisfactory and to include the following:

(I) A detailed discussion of specific problems that the program anticipates without such waiver and of the alternative resources and methods (including use of physician extenders and other paraprofessionals) that have been considered and have been and will be applied to reduce such disruption in the delivery of health services.

(II) A detailed description of those changes of the program (including improvement of educational and medical services training) which have been considered and which have been or will be applied which would make the program more attractive to graduates of medical schools who are citizens of the United States.

(III) A detailed description of the recruiting efforts which have been and will be undertaken to attract graduates of medical schools who are citizens of the United States.

(IV) A detailed description and analysis of how the program, on a year-by-year basis, has phased down and will phase down its dependence upon aliens who are graduates of foreign medical schools so that the program will not be dependent upon the admission to the program of any additional such aliens after December 31, 1983.

(B) In the administration of this subsection, the Attorney General shall take such action as may be necessary to ensure that the total number of aliens participating (at any time) in programs described in subparagraph (A) does not, because of the exemption provided by such subparagraph, exceed the total number of aliens participating in such programs on the effective date of this subsection. The Secretary of Health and Human Services, in coordination with the Attorney General and the Director of the International Communication Agency, shall (i) monitor the issuance of waivers under subparagraph (A) and the needs of the communities (with respect to which such waivers are issued) to assure that quality medical care is provided, and (ii) review each program with such a waiver to assure that the plan described in subparagraph (A)(ii) is being carried out and that participants in such program are being provided appropriate supervision in their medical education and training.

(C) The Secretary of Health and Human Services, in coordination with the Attorney General and the Director of the International Communication Agency, shall report to the Congress at the beginning of fiscal years 1982 and 1983 on the distribution (by geography, nationality, and medical specialty or field of practice) of foreign medical graduates in the United States who have received a waiver under subparagraph (A), including an analysis of the dependence of the various communities on aliens who are in medical education or training programs in the various medical specialties.

(3) The Director of the International Communication Agency annually shall transmit to the Congress a report on aliens who have submitted affidavits described in paragraph (1)(E), and shall include in such report the name and address of each such alien, the medical education or training program in which such alien is participating, and the status of such alien in that program.

(k) Any alien, excludable from the United States under paragraph (14), (20), or (21) of subsection (a), who is in possession of an immigrant visa may, if otherwise admissible, be admitted in the discretion of the Attorney General if the Attorney General is satisfied that exclusion was not known to, and could not have been ascertained by the exercise of reasonable diligence by, the immigrant before the time of departure of the vessel or aircraft from the last port outside the United States and outside foreign contiguous territory or, in the case of an immigrant com-

ing from foreign contiguous territory, before the time of the immigrant's application for admission.

(1)(1) The requirement of paragraph (26)(B) of subsection (a) of this section may be waived by the Attorney General, the Secretary of State, and the Secretary of the Interior, acting jointly, in the case of an alien applying for admission as a non-immigrant visitor for business or pleasure and solely for entry into and stay on Guam for a period not to exceed fifteen days, if the Attorney General, the Secretary of State and the Secretary of the Interior, after consultation with the Governor of Guam, jointly determine that—

(A) an adequate arrival and departure control system has been developed on Guam, and

(B) such a waiver does not represent a threat to the welfare, safety, or security of the United States or its territories and commonwealths.

(2) An alien may not be provided a waiver under this subsection unless the alien has waived any right—

(A) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into Guam, or

(B) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

(3) If adequate appropriated funds to carry out this subsection are not otherwise available, the Attorney General is authorized to accept from the Government of Guam such funds as may be tendered to cover all or any part of the cost of administration and enforcement of this subsection.

(m)(1)⁶ The qualifications referred to in section 101(a)(15)(H)(i)(a), with respect to an alien who is coming to the United States to perform nursing services for a facility, are that the alien—

(A) has obtained a full and unrestricted license to practice professional nursing in the country where the alien obtained nursing education or has received nursing education in the United States or Canada;

(B) has passed an appropriate examination (recognized in regulations promulgated in consultation with the Secretary of Health and Human Services) or has a full and unrestricted license under State law to practice professional nursing in the State of intended employment; and

(C) is fully qualified and eligible under the laws (including such temporary or interim licensing requirements which authorize the nurse to be employed) governing the place of intended employment to engage in the practice of professional nursing as a registered nurse immediately upon admission to the United States and is authorized under such laws to be employed by the facility.

(2)(A) The attestation referred to in section 101(a)(15)(H)(i)(a) is an attestation as to the following:

(i) There would be a substantial disruption through no fault of the facility in the delivery of health care services of the facility without the services of such an alien or aliens.

(ii) The employment of the alien will not adversely affect the wages and working conditions of registered nurses similarly employed.

(iii) The alien employed by the facility will be paid the wage rate for registered nurses similarly employed by the facility.

(iv) Either (I) the facility has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses, or (II) the facility is subject to an approved State plan for the recruitment and retention of nurses (described in paragraph (3)).

(v) There is not a strike or lockout in the course of a labor dispute, and the employment of such an alien is not intended or designed to influence an election for a bargaining representative for registered nurses of the facility.

(vi) At the time of the filing of the petition for registered nurses under section 101(a)(15)(H)(i)(a), notice of the filing has been provided by the facility to the bargaining representative of the registered nurses at the facility or, where there is no such bargaining representative, notice of the filing has been pro-

⁶ Subsection (m) was added by §3(b) of the Immigration Nursing Relief Act of 1989 (Pub. L. 101-238, Dec. 18, 1989), and applies, under §3(d) of such Act, to "classification petitions filed for nonimmigrant status only during the 5-year period beginning on [September 1, 1990] the first day of the 9th month beginning after the date of the enactment of this Act". For provision relating to regulations and implementation of this subsection, see §3(c) of such Act, shown in Appendix II.I.

vided to registered nurses employed at the facility through posting in conspicuous locations.

A facility is considered not to meet clause (i) (relating to an attestation of a substantial disruption in delivery of health care services) if the facility, within the previous year, laid off registered nurses. Nothing in clause (iv) shall be construed as requiring a facility to have taken significant steps described in such clause before the date of the enactment of this subsection.⁷

(B) For purposes of subparagraph (A)(iv)(I), each of the following shall be considered a significant step reasonably designed to recruit and retain registered nurses:

(i) Operating a training program for registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

(ii) Providing career development programs and other methods of facilitating health care workers to become registered nurses.

(iii) Paying registered nurses wages at a rate higher than currently being paid to registered nurses similarly employed in the geographic area.

(iv) Providing adequate support services to free registered nurses from administrative and other nonnursing duties.

(v) Providing reasonable opportunities for meaningful salary advancement by registered nurses.

The steps described in this subparagraph shall not be considered to be an exclusive list of the significant steps that may be taken to meet the conditions of subparagraph (A)(iv)(I). Nothing herein shall require a facility to take more than one step, if the facility can demonstrate that taking a second step is not reasonable.

(C) Subject to subparagraph (E), an attestation under subparagraph (A) shall—

(i) expire at the end of the 1-year period beginning on the date of its filing with the Secretary of Labor, and

(ii) apply to petitions filed during such 1-year period if the facility states in each such petition that it continues to comply with the conditions in the attestation.

(D) A facility may meet the requirements under this paragraph with respect to more than one registered nurse in a single petition.

(E)(i) The Secretary of Labor shall compile and make available for public examination in a timely manner in Washington, D.C., a list identifying facilities which have filed petitions for nonimmigrants under section 101(a)(15)(H)(i)(a) and, for each such facility, a copy of the facility's attestation under subparagraph (A) (and accompanying documentation) and each such petition filed by the facility.

(ii) The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a facility's failure to meet conditions attested to or a facility's misrepresentation of a material fact in an attestation. Complaints may be filed by any aggrieved person or organization (including bargaining representatives, associations deemed appropriate by the Secretary, and other aggrieved parties as determined under regulations of the Secretary). The Secretary shall conduct an investigation under this clause if there is reasonable cause to believe that a facility fails to meet conditions attested to.

(iii) Under such process, the Secretary shall provide, within 180 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to make a finding described in clause (iv). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint within 60 days of the date of the determination.

(iv) If the Secretary of Labor finds, after notice and opportunity for a hearing, that a facility (for which an attestation is made) has failed to meet a condition attested to or that there was a misrepresentation of material fact in the attestation, the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed \$1,000 per violation) as the Secretary determines to be appropriate. Upon receipt of such notice, the Attorney General shall not approve pe-

⁷ § 162(f)(2)(B) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5012) added at the end the following sentence, effective as if included in the Immigration Nursing Relief Act of 1989: "In the case of an alien for whom an employer has filed an attestation under this subparagraph and who is performing services at a worksite other than the employer's or other than a worksite controlled by the employer, the Secretary may waive such requirements for the attestation for the worksite as may be appropriate in order to avoid duplicative attestations, in cases of temporary, emergency circumstances, with respect to information not within the knowledge of the attester, or for other good cause."

titions filed with respect to a facility during a period of at least 1 year for nurses to be employed by the facility.

(v) In addition to the sanctions provided under clause (iv), if the Secretary of Labor finds, after notice and an opportunity for a hearing, that a facility has violated the condition attested to under subparagraph (A)(iii) (relating to payment of registered nurses at the prevailing wage rate), the Secretary shall order the facility to provide for payment of such amounts of back pay as may be required to comply with such condition.

(3) The Secretary of Labor shall provide for a process under which a State may submit to the Secretary a plan for the recruitment and retention of United States citizens and immigrants who are authorized to perform nursing services as registered nurses in facilities in the State. Such a plan may include counseling and educating health workers and other individuals concerning the employment opportunities available to registered nurses. The Secretary shall provide, on an annual basis in consultation with the Secretary of Health and Human Services, for the approval or disapproval of such a plan, for purposes of paragraph (2)(A)(iv)(II). Such a plan may not be considered to be approved with respect to the facility unless the plan provides for the taking of significant steps described in paragraph (2)(A)(iv)(I) with respect to registered nurses in the facility.

(4) The period of admission of an alien under section 101(a)(15)(H)(i)(a) shall be for an initial period of not to exceed 3 years, subject to an extension for a period or periods, not to exceed a total period of admission of 5 years (or a total period of admission of 6 years in the case of extraordinary circumstances, as determined by the Attorney General).

(5) For purposes of this subsection and section 101(a)(15)(H)(i)(a), the term "facility" includes an employer who employs registered nurses in a home setting.

Section 241 of the INA (before revision by §§ 602 & 603(b) of P.L. 101-649):

GENERAL CLASSES OF DEPORTABLE ALIENS

SEC. 241. (a) Any alien in the United States (including an alien crewman) shall, upon the order of the Attorney General, be deported who—

(1) at the time of entry was within one or more of the classes of aliens excludable by the law existing at the time of such entry;

(2) entered the United States without inspection or at any time or place other than as designated by the Attorney General or is in the United States in violation of this Act or in violation of any other law of the United States;

(3) hereafter, within five years after entry, becomes institutionalized at public expense because of mental disease, defect, or deficiency, unless the alien can show that such disease, defect, or deficiency did not exist prior to his admission to the United States;

(4)[(A)] is convicted of a crime involving moral turpitude committed within five years after entry and either sentenced to confinement or confined therefor in a prison or corrective institution, for a year or more, or who at any time after entry is convicted of two crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct, regardless of whether confined therefor and regardless of whether the convictions were in a single trial; or (B) is convicted of an aggravated felony at any time after entry;

(5) has failed to comply with the provisions of section 265 unless he establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful, or has been convicted under section 266(c) of this title, or under section 36(c) of the Alien Registration Act, 1940, or has been convicted of violating or conspiracy to violate any provision of the Act entitled "An Act to require the registration of certain persons employed by agencies to disseminate propaganda in the United States, and for other purposes", approved June 8, 1938, as amended, or has been convicted under section 1546 of title 18 of the United States Code;

(6) is or at any time has been, after entry, a member of any of the following classes of aliens:

(A) Aliens who are anarchists;

(B) Aliens who advocate or teach, or who are members of or affiliated with any organization that advocates or teaches, opposition to all organized government;

(C) Aliens who are members of or affiliated with (i) the Communist Party of the United States; (ii) any other totalitarian party of the United States; (iii) the Communist Political Association; (iv) the Communist or any other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state; (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party; or (vi) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt: *Provided*, That nothing in this paragraph, or in any other provision of this Act, shall be construed as declaring that the Communist Party does not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means;

(D) Aliens not within any of the other provisions of this paragraph who advocate the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who are members of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under the authority of such organization or paid for by the funds of, or funds furnished by, such organization;

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950, unless such aliens establish that they did not have knowledge or reason to believe at the time they became members of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization;

(F) Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage;

(G) Aliens who write or publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating or teaching (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage; or (v) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship;

(H) Aliens who are members of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in paragraph (G);

(7) is engaged, or at any time after entry has engaged, or at any time after entry has had a purpose to engage, in any of the activities described in paragraph (27) or (29) of section 212(a), unless the Attorney General is satisfied, in the case of any alien within category (C) of paragraph (29) of such section, that such alien did not have knowledge or reason to believe at the time such alien became a member of, affiliated with, or participated in the activities of the orga-

nization (and did not thereafter and prior to the date upon which such organization was registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950 have such knowledge or reason to believe) that such organization was a Communist organization;

(8) in the opinion of the Attorney General, has within five years after entry become a public charge from causes not affirmatively shown to have arisen after entry;

(9)(A) was admitted as a nonimmigrant and failed to maintain the non-immigrant status in which he was admitted or to which it was changed pursuant to section 248, or to comply with the conditions of any such status, (B) or is an alien with permanent resident status on a conditional basis under section 216 and has such status terminated under such section;

[(10) previously repealed]

(11) is, or hereafter at any time after entry has been, a narcotic drug addict, or who at any time has been convicted of a violation of, or a conspiracy⁸ to violate, any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(12) by reason of any conduct, behavior or activity at any time after entry became a member of any of the classes specified in paragraph (12) of section 212(a); or is or at any time after entry has been the manager, or is or at any time after entry has been connected with the management, of a house of prostitution or any other immoral place;

(13) prior to, or at the time of any entry, or at any time within five years after any entry, shall have, knowingly and for gain, encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law;

(14) at any time after entry, shall have been convicted of possessing or carrying in violation of any law any firearm or destructive device (as defined in paragraphs (3) and (4)) [sic], respectively, of section 921(a) of title 18, United States Code, or any revolver or any weapon which shoots or is designed to shoot automatically or semiautomatically more than one shot without manual reloading, by a single function of the trigger, or a weapon commonly called a sawed-off shotgun;

(15) at any time within five years after entry, shall have been convicted of violating the provisions of title I of the Alien Registration Act, 1940;

(16) at any time after entry, shall have been convicted more than once of violating the provisions of title I of the Alien Registration Act, 1940;

(17) the Attorney General finds to be an undesirable resident of the United States by reason of any of the following, to wit: has been or may hereafter be convicted of any violation or conspiracy to violate any of the following Acts or parts of Acts or any amendment thereto, the judgment on such conviction having become final, namely: an Act entitled "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes", approved June 15, 1917, or the amendment thereof approved May 16, 1918; sections 791, 792, 793, 794, 2388, and 3241, title 18, United States Code; an Act entitled "An Act to prohibit the manufacture, distribution, storage, use, and possession in time of war of explosives, providing regulations for the safe manufacture, distribution, storage, use, and possession of the same, and for other purposes", approved October 6, 1917; an Act entitled "An Act to prevent in time of war departure from and entry into the United States contrary to the public safety", approved May 22, 1918; section 215 of this Act; an Act entitled "An Act to punish the willful injury or destruction of war material or of war premises or utilities used in connection with war material, and for other purposes", approved April 20, 1918; sections 2151, 2153, 2154, 2155, and 2156 of title 18, United States Code; an Act entitled "An Act to authorize the President to increase temporarily the Military establishment of the United States", approved May 18, 1917, or any amendment thereof or supplement thereto; the Selective Training and Service Act of 1940; the Selective Service Act of 1948; the Universal Military Training and Service Act; an Act entitled "An Act to punish persons who make threats against the President of the United States", approved February 14, 1917; section 871 of title 18, United States Code; an Act entitled "An Act to define, regulate, and punish trading

⁸ § 508(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5051) inserted "or attempt" after "conspiracy", effective for convictions occurring on or after November 29, 1990.

with the enemy, and for other purposes", approved October 6, 1917, or any amendment, thereof, known as the Trading With the Enemy Act; section 6 of the Penal Code of the United States; section 2384 of title 18, United States Code; has been convicted of any offense against section 13 of the Penal Code of the United States committed during the period of August 1, 1914, to April 6, 1917, or of a conspiracy occurring within said period to commit an offense under said section 13 or of any offense committed during said period against the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, in aid of a belligerent in the European war; section 960 of title 18, United States Code;

(18) has been convicted under section 278 of this Act or under section 4 of the Immigration Act of February 5, 1917;

(19) during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

(A) the Nazi government of Germany,

(B) any government in any area occupied by the military forces of the Nazi government of Germany,

(C) any government established with the assistance or cooperation of the Nazi government of Germany, or

(D) any government which was an ally of the Nazi government of Germany,

ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion; or

(20) obtains the status of an alien lawfully admitted for temporary residence under section 210A and fails to meet the requirement of section 210A(d)(5)(A) by the end of the applicable period.⁹

(b)¹⁰ The provisions of subsection (a)(4) respecting the deportation of an alien convicted of a crime or crimes shall not apply (1) in the case of any alien who has subsequent to such conviction been granted a full and unconditional pardon by the President of the United States or by the Governor of any of the several States, or (2) if the court sentencing such alien for such crimes shall make, at the time of first imposing judgment or passing sentence, or within thirty days thereafter, a recommendation to the Attorney General that such alien not be deported, due notice having been given prior to making such recommendation to representatives of the interested State, the Service, and prosecution authorities, who shall be granted an opportunity to make representations in the matter. The provisions of this subsection shall not apply in the case of any alien who is charged with being deportable from the United States under subsection (a)(11) of this section.

(c) An alien shall be deported as having procured a visa or other documentation by fraud within the meaning of paragraph (19) of section 212(a), and to be in the United States in violation of this Act within the meaning of subsection (a)(2) of this section, if (1) hereafter he or she obtains any entry into the United States with an immigrant visa or other documentation procured on the basis of a marriage entered into less than two years prior to such entry of the alien and which, within two years subsequent to any entry of the alien into the United States, shall be judicially annulled or terminated, unless such alien shall establish to the satisfaction of the Attorney General that such marriage was not contracted for the purpose of evading any provisions of the immigration laws; or (2) it appears to the satisfaction of the Attorney General that he or she has failed or refused to fulfill his or her marital agreement which in the opinion of the Attorney General was hereafter made for the purpose of procuring his or her entry as an immigrant.

(d) Except as otherwise specifically provided in this section, the provisions of this section shall be applicable to all aliens belonging to any of the classes enumerated in subsection (a), notwithstanding (1) that any such alien entered the United States prior to the date of enactment of this Act, or (2) that the facts, by reason of which any such alien belongs to any of the classes enumerated in subsection (a), occurred prior to the date of enactment of this Act.

(e) An alien, admitted as a nonimmigrant under the provisions of either section 101(a)(15)(A)(i) or 101(a)(15)(G)(i), and who fails to maintain a status under either of those provisions, shall not be required to depart from the United States

⁹ A paragraph (21) (providing for deportation on the basis of being subject to a final order for violation of section 274C) was added by §544(b)(3) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5061).

¹⁰ § 505(a)(1)(B) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5050) struck clause (2) of the first sentence, effective on November 29, 1990, and applicable to convictions occurring on any date. In addition, § 505(a)(2) of that Act inserted "or who has been convicted of an aggravated felony" at the end of the second sentence.

without the approval of the Secretary of State, unless such alien is subject to deportation under subsection (a) (6) or (7) of this section.

(f)(1)(A) The provisions of this section relating to the deportation of aliens within the United States on the ground that they were excludable at the time of entry as aliens who have sought to procure or have procured visas or other documentation, or entry into the United States, by fraud or misrepresentation, whether willful or innocent, may, in the discretion of the Attorney General, be waived for any alien (other than an alien described in subsection (a)(19)) who—

(i) is the spouse, parent, or child of a citizen of the United States or of an alien lawfully admitted to the United States for permanent residence; and

(ii) was in possession of an immigrant visa or equivalent document and was otherwise admissible to the United States at the time of such entry except for those grounds of inadmissibility specified under paragraphs (14), (20), and (21) of section 212(a) which were a direct result of that fraud or misrepresentation.

(B) A waiver of deportation for fraud or misrepresentation granted under subparagraph (A) shall also operate to waive deportation based on the grounds of inadmissibility at entry described under subparagraph (A)(ii) directly resulting from such fraud or misrepresentation.

(2) The provisions of subsection (a)(11) as relate to a single offense of simple possession of 30 grams or less of marihuana may, in the discretion of the Attorney General, be waived for any alien (other than an alien described in subsection (a)(19)) who—

(A) is the spouse or child of a citizen of the United States or of an alien lawfully admitted for permanent residence, or

(B) has a child who is a citizen of the United States or an alien lawfully admitted for permanent residence,

if it is established to the satisfaction of the Attorney General that the alien's deportation would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, or child of such alien and that such waiver would not be contrary to the national welfare, safety, or security of the United States.

(g) The provisions of subsection (a)(9)(B) shall not apply in the cases described in section 216(c)(4).¹¹

Section 272(b) of the INA (before being stricken by § 603(a)(15)(B) of P.L. 101-649, not taking into account amendment made by § 543(a)(9) of that Act):

(b) Any person who shall bring to the United States an alien (other than an alien crewman) afflicted with any mental defect other than those enumerated in subsection (a) of this section, or any physical defect of a nature which may affect his ability to earn a living, as provided in section 212(a)(7), shall pay to the collector of customs of the customs district¹² in which the place of arrival is located for each and every alien so afflicted, the sum of \$250,¹² unless (1) the alien was in possession of a valid, unexpired immigrant visa, or (2) the alien was allowed to land in the United States, or (3) the alien was in possession of a valid unexpired nonimmigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired reentry permit issued to him, and (A) such application was made within one hundred and twenty days of the date of issuance of the visa or other document, or in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (B) in the event the application was made later than one hundred and twenty days of the date of issuance of the visa or other document or such examination and admission, if such person establishes to the satisfac-

¹¹ § 153(b)(1) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5006) added the following subsection (h) (which was later superseded by the subsection (h) added by § 153(b)(2) of that Act and shown in Appendix II.A.1), effective between November 29, 1990 (see § 602(d), 104 Stat. 5082), and March 1, 1991:

(h) Paragraphs (1), (2), (5), (9), or (12) of subsection 241(a) (other than so much of paragraph (1) as relates to a ground of exclusion described in paragraph (9), (10), (23), (27), (29), or (33) of section 212(a)) shall not apply to a special immigrant described in section 101(a)(27)(J) based upon circumstances that exist before the date the alien was provided such special immigrant status.

¹² § 543(a)(9) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5058) substituted payment of \$3,000 to the Commissioner for payment of \$250 to the collector of customs, effective for actions taken after November 29, 1990.

tion of the Attorney General that the existence of such disease or disability could not have been detected by the exercise of due diligence prior to the alien's embarkation.

Section 310 of the INA (before revision by § 401(a) of P.L. 101-649):

JURISDICTION TO NATURALIZE

SEC. 310. (a) Exclusive jurisdiction to naturalize persons as citizens of the United States is hereby conferred upon the following specified courts: District courts of the United States now existing, or which may hereafter be established by Congress in any State, District Court of the United States for the District of Columbia and for Puerto Rico, the District Court of the Virgin Islands of the United States, and the District Court of Guam; also all courts of record in any State or Territory now existing, or which may hereafter be created, having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited. The jurisdiction of all the courts herein specified to naturalize persons shall extend only to such persons resident within the respective jurisdiction of such courts, except as otherwise specifically provided in this title.

(b) A person who petitions for naturalization in any State court having naturalization jurisdiction may petition within the State judicial district or State judicial circuit in which he resides, whether or not he resides within the county in which the petition for naturalization is filed.

(c) The courts herein specified, upon request of the clerks of such courts, shall be furnished from time to time by the Attorney General with such blank forms as may be required in naturalization proceedings.

(d) A person may be naturalized as a citizen of the United States in the manner and under the conditions prescribed in this title, and not otherwise.

Subsections (c), (d), & (e) of section 334 of the INA (before revision by § 407(d)(12) of P.L. 101-649):

(c) Petitions for naturalization may be made and filed during the term time or vacation of the naturalization court and shall be docketed the same day as filed, but final action thereon shall be had only on stated days, to be fixed by rule of the court.

(d) If the applicant for naturalization is prevented by sickness or other disability from presenting himself in the office of the clerk to make the petition required by subsection (a) such applicant may make such petition at such other place as may be designated by the clerk of court or by such clerk's authorized deputy.

(e) Before a petition for naturalization may be made outside of the office of the clerk of the court, pursuant to subsection (d) above, or before a final hearing on a petition may be held or the oath of allegiance administered outside of open court, pursuant to sections 336(a) and 337(c) respectively of this title, the court must satisfy itself that the illness or other disability is sufficiently serious to prevent appearance in the office of the clerk of court and is of a permanent nature, or of a nature which so incapacitates the person as to prevent him from personally appearing in the office of the clerk of court or in court as otherwise required by law.

Subsections (d) through (f) of section 335 of the INA (before revision by § 407(d)(13) of P.L. 101-649):

(d) The recommendation of the employee designated to conduct any such preliminary examination shall be submitted to the court at the hearing upon the petition and shall include a recommendation that the petition be granted, or denied, or continued, with reasons therefor. In any case in which the recommendation of the Attorney General does not agree with that of the employee designated to conduct such preliminary examination, the recommendations of both such employee and the Attorney General shall be submitted to the court at the hearing upon the petition, and the officer of the Service in attendance at such hearing shall, at the request of the court, present both the views of such employee and those of the Attorney General with respect to such petition to the court. The recommendations of such employee and of the Attorney General shall be accompanied by duplicate lists containing the names of the petitioners, classified according to the character of the rec-

ommendations, and signed by such employee or the Attorney General, as the case may be. The judge to whom such recommendations are submitted shall, if he approves such recommendations, enter a written order with such exceptions as the judge may deem proper, by subscribing his name to each such list when corrected to conform to his conclusions upon such recommendations. One of each such list shall thereafter be filed permanently of record in such court and the duplicate of each such list shall be sent by the clerk of such court to the Attorney General.

(e) After the petition for naturalization has been filed in the office of the clerk of court, the petitioner shall not be permitted to withdraw his petition, except with the consent of the Attorney General. In cases where the Attorney General does not consent to withdrawal of the petition, the court shall determine the petition on its merits and enter a final order accordingly. In cases where the petitioner fails to prosecute his petition, the petition shall be decided upon its merits unless the Attorney General moves that the petition be dismissed for lack of prosecution.

(f)(1) A petitioner for naturalization who removes from the jurisdiction of the court in which his petition for naturalization is pending may, at any time thereafter, make application to the court for transfer of the petition to a naturalization court exercising jurisdiction over the petitioner's place of residence, or to any other naturalization court if the petition was not required to be filed in a naturalization court exercising jurisdiction over the petitioner's place of residence: *Provided*, That such transfer shall not be made without the consent of the Attorney General, and of the court to which the petition is transferred.

(2) Where transfer of the petition is authorized the clerk of court in which the petition was filed shall forward a certified copy of the petition and the original record in the case to the clerk of court to which the petition is transferred, and proceedings on the petition shall thereafter continue as though the petition had originally been filed in the court to which transferred.

Subsections (a) and (b) of section 336 of the INA (before revision by § 407(d)(14) of P.L. 101-649):

SEC. 336. (a) Every final hearing upon a petition for naturalization shall be had in open court before a judge or judges thereof, and every final order which may be made upon such petition shall be under the hand of the court and entered in full upon a record kept for that purpose, and upon such final hearing of such petition the petitioner, except as provided in subsection (b) of this section, shall be examined under oath before the court and in the presence of the court. If the petitioner is prevented by sickness or other disability from being in open court for the final hearing upon a petition for naturalization, such final hearing may be had before a judge or judges of the court at such place as may be designated by the court.

(b) The requirement of subsection (a) of this section for the examination of the petitioner under oath before the court and in the presence of the court shall not apply in any case where an employee designated under section 335(b) has conducted the preliminary examination authorized by subsection (b) of section 335; except, that the court may, in its discretion, and shall, upon demand of the petitioner, require the examination of the petitioner under oath before the court and in the presence of the court.

Section 339 of the INA (before revision by § 407(d)(17) of P.L. 101-649):

SEC. 339. (a) It shall be the duty of the clerk of each and every naturalization court to forward to the Attorney General a duplicate of each petition for naturalization within thirty days after the close of the month in which such petition was filed, and to forward to the Attorney General certified copies of such other proceedings and orders instituted in or issued out of said court affecting or relating to the naturalization of persons as may be required from time to time by the Attorney General.

(b) It shall be the duty of the clerk of each and every naturalization court to issue to any person admitted by such a court to citizenship a certificate of naturalization and to forward to the Attorney General within thirty days after the close of the month in which such certificate was issued, a duplicate thereof, and to make and keep on file in the clerk's office a stub for each certificate so issued, whereon shall be entered a memorandum of all the essential facts set forth in such certificate, and to forward a duplicate of each such stub to the Attorney General within thirty days after the close of the month in which such certificate was issued.

(c) It shall be the duty of the clerk of each and every naturalization court to report to the Attorney General, within thirty days after the close of the month in which the final hearing and decision of the court was had, the name and number of the petition of each and every person who shall be denied naturalization together with the cause of such denial.

(d) Clerks of courts shall be responsible for all blank certificates of naturalization received by them from time to time from the Attorney General, and shall account to the Attorney General for them whenever required to do so. No certificate of naturalization received by any clerk of court which may be defaced or injured in such manner as to prevent its use as herein provided shall in any case be destroyed, but such certificates shall be returned to the Attorney General.

(e) It shall be the duty of the clerk of each and every naturalization court to cause to be filed in chronological order in separate volumes, indexed, consecutively numbered, and made a part of the records of such court, all declarations of intention and petitions for naturalization.

Subsections (c), (d), (e), and (f) of section 344 of the INA (before revision by § 407(d)(19) of P.L. 101-649):

(c) The clerk of any naturalization court specified in subsection (a) of section 310 (except the courts specified in subsection (d) of this section) shall account for and pay over to the Attorney General one-half of all fees up to the sum of \$40,000, and all fees in excess of \$40,000, collected by any such clerk in naturalization proceedings in any fiscal year.

(d) The clerk of any United States district court (except in the District Court of the Virgin Islands of the United States and in the District Court of Guam) shall account for and pay over to the Attorney General all fees collected by any such clerk in naturalization proceedings: *Provided, however,* That the clerk of the District Court of the Virgin Islands of the United States and of the District Court of Guam shall report but shall not be required to pay over to the Attorney General the fees collected by any such clerk in naturalization proceedings.

(e) The accounting required by subsections (c) and (d) of this section shall be made and the fees paid over to the Attorney General by such respective clerks in their quarterly accounts which they are hereby required to render to the Attorney General within thirty days from the close of each quarter of each and every fiscal year, in accordance with regulations prescribed by the Attorney General.

(f) The clerks of the various naturalization courts shall pay all additional clerical force that may be required in performing the duties imposed by this title upon clerks of courts from fees retained under the provisions of this section by such clerks in naturalization proceedings.

Section 348 of the INA (before repeal by § 407(d)(20) of P.L. 101-649):

ADMISSIBILITY IN EVIDENCE OF TESTIMONY AS TO STATEMENTS VOLUNTARILY MADE TO OFFICERS OR EMPLOYEES IN THE COURSE OF THEIR OFFICIAL DUTIES

SEC. 348. (a) In case any clerk of court shall refuse or neglect to comply with any of the provisions of section 339 (a), (b), or (c), such clerk of court shall forfeit and pay to the United States the sum of \$25 in each and every case in which such violation or omission occurs and the amount of such forfeiture may be recovered by the United States in a civil action against such clerk.

(b) If a clerk of court shall fail to return to the Service or properly account for any certificate of naturalization furnished by the Service as provided in subsection (d) of section 339, such clerk of court shall be liable to the United States in the sum of \$50, to be recovered in a civil action, for each and every such certificate not properly accounted for or returned.

3. MISCELLANEOUS AND TECHNICAL IMMIGRATION AND NATURALIZATION AMENDMENTS OF 1991

(Public Law 102-232, Dec. 12, 1991, 105 Stat. 1733)

[References to ImmAct'90 are to the Immigration Act of 1990, P.L. 101-649, as amended by the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, Oct. 25, 1994)]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Miscellaneous and Technical Immigration and Naturalization Amendments of 1991”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—JUDICIAL NATURALIZATION CEREMONIES AMENDMENTS

Sec. 101. Short title of title.

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TITLE I—JUDICIAL NATURALIZATION CEREMONIES AMENDMENTS

SEC. 101. SHORT TITLE OF TITLE.

This title may be cited as the “Judicial Naturalization Ceremonies Amendments of 1991”.

SEC. 102. COURT AUTHORITY TO ADMINISTER OATHS OF ALLEGIANCE FOR NATURALIZATION.

(a) [Omitted; amended § 310(b) in its entirety.]

(b) [Omitted; conforming amendments to §§ 339(a) & 337(c) and added § 334(f).]

(c) **EFFECTIVE DATE.**—The amendments made by this title shall take effect 30 days after the date of the enactment of this Act [viz., January 11, 1992].

TITLE II—O AND P NONIMMIGRANT AMENDMENTS

SEC. 201. SHORT TITLE OF TITLE.

This title may be cited as the “O and P Nonimmigrant Amendments of 1991”.

SEC. 202. REPEAL OF NUMERICAL LIMITATIONS ON P-1 AND P-3 NONIMMIGRANTS; GAO REPORT.

(a) [Omitted; struck subparagraph (C) of § 214(g)(1).]

(b) **REPORT.**—(1) By not later than October 1, 1994, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the Senate and of the House of Representatives a report containing information relating to the

admission of artists, entertainers, athletes, and related support personnel as nonimmigrants under subparagraphs (O) and (P) of section 101(a)(15) of the Immigration and Nationality Act, and information on the laws, regulations, and practices in effect in other countries that affect United States citizens and permanent resident aliens in the arts, entertainment, and athletics, in order to evaluate the impact of such admissions, laws, regulations, and practices on such citizens and aliens.

(2) Not later than 30 days after the date the Committee of the Judiciary on the Senate receives the report under paragraph (1), the Chairman of the Committee shall make the report available to interested parties and shall hold a hearing respecting the report. No later than 90 days after the date of receipt of the report, such Committee shall report to the Senate its findings and any legislation it deems appropriate.

SEC. 203. STANDARDS FOR CLASSIFICATION OF P-1 NONIMMIGRANTS.

(a) **SUBSTITUTION OF NEW STANDARDS.**—[Omitted; amended clause (i) of § 101(a)(15)(P) in its entirety.]

(b) **NEW STANDARDS.**—[Omitted; redesignated subparagraphs (A) through (C) as subparagraphs (C) through (E) and by inserted new subparagraphs (A) and (B) of § 214(c)(4).]

SEC. 204. CONSULTATION REQUIREMENT.

[Omitted; amended paragraphs (3)(A), (3)(B), (4)(C), (4)(C) of § 214(c), and redesignated paragraph (6) as (7) and inserted a new paragraph (6) to that section.]

SEC. 205. AMENDMENTS RELATING TO O NONIMMIGRANTS.

(a) **DEFINITION OF EXTRAORDINARY ABILITY IN THE ARTS FOR O NONIMMIGRANTS.**—[Omitted; added a paragraph (46) to § 101(a).]

(b) **ELIMINATING ADDITIONAL PAPERWORK REQUIREMENT FOR O-1's.**—[Omitted; amended § 101(a)(15)(O)(i).]

(c) **CLARIFICATION OF SIGNIFICANT PHOTOGRAPHY FOR O-2s.**—[Omitted; amended § 101(a)(15)(O)(ii)(III)(b).]

(d) **CLARIFICATION OF MULTIPLE EVENTS FOR VISAS FOR O NONIMMIGRANTS.**—[Omitted; amended § 214(a)(2)(A).]

(e) **CONSULTATION WITH RESPECT TO READMITTED O-1 NONIMMIGRANTS.**—[Omitted; amended § 214(c)(3) by adding 2 sentences at the end.]

SEC. 206. AMENDMENTS RELATING TO P NONIMMIGRANTS.

(a) **ELIMINATING 3-MONTH OUT-OF-COUNTRY RULE FOR P-2 AND P-3 NONIMMIGRANTS.**—[Omitted; struck clause (ii) of § 214(a)(2)(B).]

(b) **TREATMENT OF FOREIGN ORGANIZATIONS FOR P-2 NONIMMIGRANTS.**—[Omitted; amended § 101(a)(15)(P)(ii)(II).]

(c) **TREATMENT OF P-2 NONIMMIGRANTS.**—[Omitted; amended §§ 101(a)(15)(P)(ii)(II) & 214(c)(4)(E).]

(d) **PERFORMANCE OF TEACHING AND COACHING FUNCTIONS BY P-3 NONIMMIGRANTS.**—[Omitted; amended § 101(a)(15)(P)(iii)(II).]

SEC. 207. OTHER AMENDMENTS.

(a) **RETURN TRANSPORTATION REQUIREMENT FOR O AND P NONIMMIGRANTS.**—[Omitted; amended § 214(c)(5) by adding a new subparagraph (B).]

(b) **ENTRY OF FASHION MODELS UNDER H-1B.**—[Omitted; amended § 101(a)(15)(H)(i)(b).]

(c) **ANNUAL REPORT.**—

(1) **IN GENERAL.**—[Omitted; added paragraph (8) to § 214(c).]

(2) **DEADLINE FOR FIRST REPORT.**—The first report under section 214(c)(8) of the Immigration and Nationality Act shall be provided not later than April 1, 1993.

SEC. 208. EFFECTIVE DATE.

The provisions of, and amendments made by, this title shall take effect on April 1, 1992.

TITLE III—MISCELLANEOUS AND TECHNICAL CORRECTIONS

SEC. 301. SHORT TITLE OF TITLE; REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.

(a) This title may be cited as the “Immigration Technical Corrections Act of 1991”.

(b) In this title, the term “INA” means the Immigration and Nationality Act.

SEC. 302. CORRECTIONS RELATING TO TITLE I OF THE IMMIGRATION ACT OF 1990.

(a)(1) [Omitted; amended § 201 of the INA, as amended by § 101(a) of ImmAct'90.]

(2) [Omitted; added a new subsection (c) to § 101 of ImmAct'90.]

(3) [Omitted; amended § 202(a)(4)(A) of the INA, as amended by § 102(1) of ImmAct'90.]

(b)(1) [Omitted; amended § 112 of ImmAct'90.]

(2) [Omitted; amended § 203(b) of the INA, as inserted by § 121(a) of ImmAct'90.]

(3) [Omitted; amended § 216A of the INA, as inserted by § 121(b)(1) of ImmAct'90.]

(4) [Omitted; amended § 121(b)(2) of ImmAct'90.]

(5) [Omitted; amended § 124(a) of ImmAct'90.]

(6) [Omitted; amended § 132 of ImmAct'90.]

(7) [Omitted; amended § 134(a) of ImmAct'90.]

(c) [Omitted; amended § 141 of ImmAct'90 and conformed table of contents.]

(d)(1) [Omitted; amended § 152(b)(1)(A) of ImmAct'90.]

(2) [Omitted; amended § 245 of the INA by adding a new subsection (h).]

(3) [Omitted; amended § 241(h) of the INA, as amended by § 153(b) of ImmAct'90.]

(4) [Omitted; amended § 154 of ImmAct'90.]

(5) [Omitted; amended § 155 of ImmAct'90.]

(e)(1) [Omitted; amended § 161(a) of ImmAct'90.]

(2) [Omitted; amended § 161(c)(1) of ImmAct'90, including adding sentences at the end.]

(3) [Omitted; amended § 203(f) of the INA, as inserted by § 162(a) of ImmAct'90.]

(4) [Omitted; amended § 204(a)(1) of the INA, as amended by § 162(b) of ImmAct'90.]

(5) [Omitted; amended § 204(e) of the INA, as amended by § 162(b)(3) of ImmAct'90.]

(6) [Omitted; repealed paragraph (1) of § 162(e) of ImmAct'90 and restored previous provisions of law.]

(7) [Omitted; amended § 245(b) of the INA, as amended by § 162(e)(3) of ImmAct'90.]

(8) [Omitted; added additional technical corrections as if included in § 162(e) of ImmAct'90.]

(9) [Omitted; amended § 212(m)(2)(A), effective as if included in the Immigration Nursing Relief Act of 1989, a new sentence after clause (vi).]

(10) [Omitted; amended § 2(b) of the Immigration Nursing Relief Act of 1989.]

SEC. 303. CORRECTIONS RELATING TO TITLE II OF THE IMMIGRATION ACT OF 1990.

(a)(1) [Omitted; amended § 217 of the INA, as amended by § 201(a) of ImmAct'90.]

(2) [Omitted; amended § 217(e)(1) of the INA.]

(3) [Omitted; amended § 251(d) of the INA, as inserted by § 203(b)(2) of ImmAct'90.]

(4) [Omitted; amended § 258(c)(2)(B) of the INA, as inserted by § 203(a)(1) of ImmAct'90.]

(5) [Omitted; amended § 101(a)(15)(H)(i)(b) of the INA, as amended by § 205(c)(1) of ImmAct'90, and also rewrote paragraph (2) of § 212(j).]

(6) [Omitted; amended § 212(n)(1)(A)(ii) of the INA, as added by § 205(c)(3) of ImmAct'90.]

(7)(A) [Omitted; amended § 101(a)(15)(H)(i) of the INA, as amended by § 205(c)(1) of ImmAct'90.]

(B) [Omitted; amended § 212(n) of the INA, as added by § 205(c)(3) of ImmAct'90.]

(8) The Secretary of Labor shall issue final or interim final regulations to implement the changes made by this section to section 101(a)(15)(H)(i)(b) and section 212(n) of the Immigration and Nationality Act no later than January 2, 1992.

(9) [Omitted; amended § 206(a) of ImmAct'90.]

(10) [Omitted; amended § 214(c)(2) of the INA, as added by § 206(b)(2) of ImmAct'90.]

(11) [Omitted; amended § 214(a)(2)(A) of the INA, as added by § 207(b)(1) of ImmAct'90.]

(12) [Omitted; amended § 214(c)(5) of the INA, as added by § 207(b)(2)(B) of ImmAct'90.]

(13) [Omitted; amended § 207(c) of ImmAct'90.]

(14) [Omitted; amended § 101(a)(15)(Q) of the INA, as added by § 208(3) of ImmAct'90.]

(b)(1) [Omitted; amended § 221(a) of ImmAct'90.]

(2) [Omitted; amended § 221(b) of ImmAct'90.]

(3) [Omitted; amended § 222(a) of ImmAct'90.]

(4) [Omitted; amended § 223(a) of ImmAct'90.]

SEC. 304. CORRECTIONS RELATING TO TITLE III OF THE IMMIGRATION ACT OF 1990.

(a) [Omitted; amended § 302(c) of ImmAct'90.]

(b) [Omitted; amended § 244A of the INA, as inserted by § 302(a) of ImmAct'90.]

(c)(1) In the case of an alien described in paragraph (2) whom the Attorney General authorizes to travel abroad temporarily and who returns to the United States in accordance with such authorization—

(A) the alien shall be inspected and admitted in the same immigration status the alien had at the time of departure if—

(i) in the case of an alien described in paragraph (2)(A), the alien is found not to be excludable on a ground of exclusion referred to in section 301(a)(1) of the Immigration Act of 1990, or

(ii) in the case of an alien described in paragraph (2)(B), the alien is found not to be excludable on a ground of exclusion referred to in section 244A(c)(2)(A)(iii) of the Immigration and Nationality Act; and

(B) the alien shall not be considered, by reason of such authorized departure, to have failed to maintain continuous physical presence in the United States for purposes of section 244(a) of the Immigration and Nationality Act if the absence meets the requirements of section 244(b)(2) of such Act.

(2) Aliens described in this paragraph are the following:

(A) Aliens provided benefits under section 301 of the Immigration Act of 1990 (relating to family unity).

(B) Aliens provided temporary protected status under section 244A of the Immigration and Nationality Act, including aliens provided such status under section 303 of the Immigration Act of 1990.

SEC. 305. CORRECTIONS RELATING TO TITLE IV OF THE IMMIGRATION ACT OF 1990.

(a) [Omitted; amended § 310(b) of the INA, as amended by § 401(a) of ImmAct'90.]

(b) [Omitted; amended § 407(c)(11) of ImmAct'90.]

(c) [Omitted; amended § 407(d)(8) of ImmAct'90.]

(d) [Omitted; redesignated subsection (g) of § 334 of the INA.]

(e) [Omitted; amended § 407(d)(12)(B) of ImmAct'90.]

(f) [Omitted; amended § 335(b) of the INA, as amended by § 407(d)(13)(C)(iii) of ImmAct'90.]

(g) [Omitted; amended § 407(d)(14)(D)(i) of ImmAct'90.]

(h) [Omitted; amended § 407(d)(14)(E)(ii) of ImmAct'90.]

(i) [Omitted; amended § 337(c) of the INA.]

(j)(1) [Omitted; amended § 407(d)(16)(C) of ImmAct'90.]

(2) [Omitted; amended § 338 of the INA, as amended by § 407(d)(16)(C) of ImmAct'90.]

(k) [Omitted; amended § 340 of the INA, as amended by § 407(d)(18) of ImmAct'90.]

(l) [Omitted; amended § 407(d)(19)(A)(i) of ImmAct'90.]

(m) [Omitted; makes a variety of additional amendments to §§ 101(a)(24), 312, 322, 330, 332(a), 334(a), & 341(a) of the INA, as if included in § 407(d) of ImmAct'90.]

(n) [Omitted; amended § 408(a)(2)(B) of ImmAct'90.]

SEC. 306. CORRECTIONS RELATING TO TITLE V OF THE IMMIGRATION ACT OF 1990.

(a)(1) [Omitted; amended § 101(a)(43) of the INA, as amended by § 501(a)(4) of ImmAct'90.]

(2) [Omitted; amended § 502(a) of ImmAct'90.]

(3) [Omitted; amended § 287(a)(4) of the INA, as amended by § 503(a)(2) of ImmAct'90.]

(4) [Omitted; amended in its entirety subparagraph (B) of § 242(a)(2) of the INA, as added by § 504(a)(5) of ImmAct'90.]

(5) [Omitted; amended § 236(e)(1) of the INA, as amended by § 504(b) of ImmAct'90.]

(6) [Omitted; amended § 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by § 507 of ImmAct'90.]

- (7) [Omitted; amended § 509(b) of ImmAct'90.]
- (8) [Omitted; amended § 510(b) of ImmAct'90.]
- (9) [Omitted; amended § 510(c) of ImmAct'90.]
- (10) [Omitted; amended § 212(c) of the INA, as added by § 511(a) of ImmAct'90.]
- (11) [Omitted; amended § 513(b) of ImmAct'90.]
- (12) [Omitted; amended § 514(a) of ImmAct'90.]
- (13) [Omitted; amended paragraphs (1) and (2) of § 515(b) of ImmAct'90 in their entirety.]
- (b) [Omitted; amended §§ 274B(g)(2)(B)(iv)(II), 274A(b)(3), & 274B(g)(2)(B) of the INA, as amended by sections 536 through 539 of ImmAct'90.]
- (c)(1) [Omitted; amended § 274B(g)(2)(D) of the INA.]
- (2) [Omitted; amended § 543(a)(3) of ImmAct'90.]
- (3) [Omitted; amended §§ 252(c) and 275(a) of the INA.]
- (4) [Omitted; amended miscellaneous sections in title II which referred to customs authority.]
- (5)(A) [Omitted; amended § 274C(a) of the INA, as added by § 544(a) of ImmAct'90.]
- (B) [Omitted; amended § 544 of ImmAct'90.]
- (6) [Omitted; amended § 242B of the INA, as inserted by § 545(a) of ImmAct'90.]
- (7) [Omitted; restored text of 8th sentence of § 242(b) of the INA, as amended by § 545(e) of ImmAct'90.]

SEC. 307. CORRECTIONS RELATING TO TITLE VI OF THE IMMIGRATION ACT OF 1990.

- (a) [Omitted; amended § 212(a) of the INA, as amended by § 601(a) of ImmAct'90.]
- (b) [Omitted; amended § 212(c) of the INA, as amended by § 601(d)(1) of ImmAct'90.]
- (c) [Omitted; amended § 212(d)(3) of the INA, as amended by § 601(d)(2)(B)(i) of ImmAct'90.]
- (d) [Omitted; amended § 212(d)(11) of the INA, as added by § 601(d)(2)(F) of ImmAct'90.]
- (e) [Omitted; amended § 212(g)(1) of the INA, as amended by § 601(d)(3) of ImmAct'90.]
- (f) [Omitted; amended § 212(h) of the INA, as amended by § 601(d)(4) of ImmAct'90.]
- (g) [Omitted; amended § 212(i) of the INA, as amended by § 601(d)(5) of ImmAct'90.]
- (h) [Omitted; amended § 241(a) of the INA, as amended by § 602(a) of ImmAct'90.]
- (i) [Omitted; amended § 102 of the INA, as amended by § 603(a)(2) of ImmAct'90.]
- (j) [Omitted; amended § 210(b)(7)(B) as if included in § 603(a)(5) of ImmAct'90.]
- (k) [Omitted; amended § 241 of the INA, as if included in § 602(b) of ImmAct'90.]
- (l) [Omitted; amended §§ 207(c)(3), 210A(e)(2)(B), 209(c), 217(a), 218(g)(3), 244A(c), 245A(d)(2)(B)(ii), & 272(a) of the INA and other provisions, as if included in § 603(a) of ImmAct'90.]
- (m) [Omitted; amended § 242(e) as if included in § 603(b) of ImmAct'90.]

SEC. 308. CORRECTIONS RELATING TO TITLE VII OF THE IMMIGRATION ACT OF 1990.

- (a) [Omitted; amended § section 245(e)(3) of the INA, as added by § 702(a)(2) of the Immigration Act of 1990.]
- (b) [Omitted; amended § 702(b) of ImmAct'90.]
- (c) [Omitted; amended § 304(f) of the Immigration Reform and Control Act of 1986, as amended by § 704(b) of ImmAct'90.]
- (d) [Omitted; amended § 404(b)(2)(A) of the INA, as added by § 705(a)(5) of ImmAct'90.]

SEC. 309. ADDITIONAL MISCELLANEOUS CORRECTIONS.

- (a)(1)(A) [Omitted; miscellaneous amendments to § 209 of the Department of Justice Appropriations Act, 1989 (title II of Public Law 100-459).]
- (B) [Omitted; amended the fourth proviso under Immigration and Naturalization Service in the Department of Justice Appropriations Act, 1990 (title II of Public Law 101-162).]
- (2)(A) [Omitted; amended § 286 of the INA, as amended by § 210 of the Department of Justice Appropriations Act, 1991.]

(B) [Omitted; amended § 210(a)(2) of the Department of Justice Appropriations Act, 1991.]

(3) The amendments made by paragraphs (1)(A) and (1)(B)¹ shall be effective as if they were included in the enactment of the Department of Justice Appropriations Act, 1989 and the Department of Justice Appropriations Act, 1990, respectively.

(b) [(1)–(14): Omitted; amended miscellaneous provisions in the INA.]

(15) The amendments made by section 8 of the Immigration Technical Corrections Act of 1988 shall be effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986 (Public Law 99–653).

SEC. 310. EFFECTIVE DATES.

Except as otherwise specifically provided, the amendments made by (and provisions of)—

(1) sections 302 through 308 shall take effect as if included in the enactment of the Immigration Act of 1990, and

(2) section 309(b)² shall take effect on the date of the enactment of this Act.

B. IMMIGRATION REFORM AND CONTROL ACT OF 1986 AND SAVE PROVISIONS

1. IMMIGRATION REFORM AND CONTROL ACT OF 1986

(Public Law 99–603, Nov. 6, 1986; as amended by the Department of Justice Appropriations Act, 1988 (Pub. L. 100–202), the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100–525), Department of Health and Human Services Appropriations Act, 1990 (Pub. L. 101–166), the Immigration Nursing Relief Act of 1989 (Pub. L. 101–238), the Department of Health and Human Services Appropriations Act, 1991 (Pub. L. 101–517), and the Immigration Act of 1990 (Pub. L. 101–649))

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the “Immigration Reform and Control Act of 1986”.

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of, a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

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¹ § 219(z)(6) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103–416, 108 Stat. 4318, Oct. 25, 1994) substituted “paragraphs (1)(A) and (1)(B)” for “paragraph (1) and (2)”.

² § 219(z)(9) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103–416, 108 Stat. 4318, Oct. 25, 1994) struck a previous paragraph (2), redesignated paragraph (3) as paragraph (2) and substituted “309(b)” for “309(c)”.

- Sec. 114. Liability of owners and operators of international bridges and toll roads to prevent the unauthorized landing of aliens.
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TITLE I—CONTROL OF ILLEGAL IMMIGRATION

PART A—EMPLOYMENT

SEC. 101. CONTROL OF UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—

(1) NEW PROVISION.—[Omitted; inserted section 274A; technical corrections made to this section by § 2(a)(1) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2609).]

(2) INTERIM REGULATIONS.—The Attorney General shall, not later than the first day of the seventh month beginning after the date of the enactment of this Act, first issue, on an interim or other basis, such regulations as may be necessary in order to implement this section.

(3) GRANDFATHER FOR CURRENT EMPLOYEES.—(A) Section 274A(a)(1) of the Immigration and Nationality Act shall not apply to the hiring, or recruiting or referring of an individual for employment which has occurred before the date of the enactment of this Act.

(B) Section 274A(a)(2) of the Immigration and Nationality Act shall not apply to continuing employment of an alien who was hired before the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS TO MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.—(1) [Omitted; miscellaneous amendments to Migrant

and Seasonal Agriculture Worker Protection Act (Pub. L. 97-470); see Appendix VII.C.]

(2) The amendments made by paragraph (1) shall apply to the employment, recruitment, referral, or utilization of the services of an individual occurring on or after the first day of the seventh month beginning after the date of the enactment of this Act; except that if the provisions of section 274A of the Immigration and Nationality Act are terminated as of a date under subsection (1) of that section, then such amendments shall no longer apply as of such date.

(c) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—[Omitted]

(d) STUDY ON THE USE OF A TELEPHONE VERIFICATION SYSTEM FOR DETERMINING EMPLOYMENT ELIGIBILITY OF ALIENS.—(1) The Attorney General, in consultation with the Secretary of Labor and the Secretary of Health and Human Services, shall conduct a study for use by the Department of Justice in determining employment eligibility of aliens in the United States. Such study shall concentrate on those data bases that are currently available to the Federal Government which through the use of a telephone and computation capability could be used to verify instantly the employment eligibility status of job applicants who are aliens.

(2) Such study shall be conducted in conjunction with any existing Federal program which is designed for the purpose of providing information on the resident or employment status of aliens for employers. The study shall include an analysis of costs and benefits which shows the differences in costs and efficiency of having the Federal Government or a contractor perform this service. Such comparisons should include reference to such technical capabilities as processing techniques and time, verification techniques and time, back up safeguards, and audit trail performance.

(3) Such study shall also concentrate on methods of phone verification which demonstrate the best safety and service standards, the least burden for the employer, the best capability for effective enforcement, and procedures which are within the boundaries of the Privacy Act of 1974.

(4) Such study shall be conducted within twelve months of the date of enactment of this Act.

(5) The Attorney General shall prepare and transmit to the Congress a report—

(A) not later than six months after the date of enactment of this Act, describing the status of such study; and

(B) not later than twelve months after such date, setting forth the findings of such study.

(e) FEASIBILITY STUDY OF SOCIAL SECURITY NUMBER VALIDATION SYSTEM.—The Secretary of Health and Human Services, acting through the Social Security Administration and in cooperation with the Attorney General and the Secretary of Labor, shall conduct a study of the feasibility and costs of establishing a social security number validation system to assist in carrying out the purposes of section 274A of the Immigration and Nationality Act, and of the privacy concerns that would be raised by the establishment of such a system. The Secretary shall submit to the Committees on Ways and Means and Judiciary of the House of Representatives and to the Committees on Finance and Judiciary of the Senate, within 2 years after the date of the enactment of this Act, a full and complete report on the results of the study together with such recommendations as may be appropriate.

(f) COUNTERFEITING OF SOCIAL SECURITY ACCOUNT NUMBER CARDS.—(1) The Comptroller General of the United States, upon consultation with the Attorney General and the Secretary of Health and Human Services as well as private sector representatives (including representatives of the financial, banking, and manufacturing industries), shall inquire into technological alternatives for producing and issuing social security account number cards that are more resistant to counterfeiting than social security account number cards being issued on the date of enactment of this Act by the Social Security Administration, including the use of encoded magnetic, optical, or active electronic media such as magnetic stripes, holograms, and integrated circuit chips. Such inquiry should focus on technologies that will help ensure the authenticity of the card, rather than the identity of the bearer.

(2) The Comptroller General of the United States shall explore additional actions that could be taken to reduce the potential for fraudulently obtaining and using social security account number cards.

(3) Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall prepare and transmit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and the Committee on the Judiciary and the Committee on Finance of the Senate a report setting forth his findings and recommendations under this subsection.

SEC. 102. UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) IN GENERAL.—[Omitted; inserted section 274B.]

(b) NO EFFECT ON EEOC AUTHORITY.—Except as may be specifically provided in this section, nothing in this section shall be construed to restrict the authority of the Equal Employment Opportunity Commission to investigate allegations, in writing and under oath or affirmation, of unlawful employment practices, as provided in section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5), or any other authority provided therein.

(c) CLERICAL AMENDMENT.—[omitted]

SEC. 103. FRAUD AND MISUSE OF CERTAIN IMMIGRATION-RELATED DOCUMENTS.

[Omitted; amended § 1546 of title 18, U.S. Code, relating to fraud and misuse of visas, permits, and other documents. For text, see Appendix I.]

PART B—IMPROVEMENT OF ENFORCEMENT AND SERVICES**SEC. 111. AUTHORIZATION OF APPROPRIATIONS FOR ENFORCEMENT AND SERVICE ACTIVITIES OF THE IMMIGRATION AND NATURALIZATION SERVICE.**

(a) TWO ESSENTIAL ELEMENTS.—It is the sense of Congress that two essential elements of the program of immigration control established by this Act are—

(1) an increase in the border patrol and other inspection and enforcement activities of the Immigration and Naturalization Service and of other appropriate Federal agencies in order to prevent and deter the illegal entry of aliens into the United States and the violation of the terms of their entry, and

(2) an increase in examinations and other service activities of the Immigration and Naturalization Service and other appropriate Federal agencies in order to ensure prompt and efficient adjudication of petitions and applications provided for under the Immigration and Nationality Act.

(b) INCREASED AUTHORIZATION OF APPROPRIATIONS FOR INS AND EOIR.—In addition to any other amounts authorized to be appropriated, in order to carry out this Act there are authorized to be appropriated to the Department of Justice—

(1) for the Immigration and Naturalization Service, for fiscal year 1987, \$422,000,000, and for fiscal year 1988, \$419,000,000; and

(2) for the Executive Office of Immigration Review, for fiscal year 1987, \$12,000,000, and for fiscal year 1988, \$15,000,000.

Of the amounts authorized to be appropriated under paragraph (1) sufficient funds shall be available to provide for an increase in the border patrol personnel of the Immigration and Naturalization Service so that the average level of such personnel in each of fiscal years 1987 and 1988 is at least 50 percent higher than such level for fiscal year 1986.

(c) USE OF FUNDS FOR IMPROVED SERVICES.—Of the funds appropriated to the Department of Justice for the Immigration and Naturalization Service, the Attorney General shall provide for improved immigration and naturalization services and for enhanced community outreach and in-service training of personnel of the Service. Such enhanced community outreach may include the establishment of appropriate local community task forces to improve the working relationship between the Service and local community groups and organizations (including employers and organizations representing minorities).

(d) SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR WAGE AND HOUR ENFORCEMENT.—There are authorized to be appropriated, in addition to such sums as may be available for such purposes, such sums as may be necessary to the Department of Labor for enforcement activities of the Wage and Hour Division and the Office of Federal Contract Compliance Programs within the Employment Standards Administration of the Department in order to deter the employment of unauthorized aliens and remove the economic incentive for employers to exploit and use such aliens.

SEC. 112. UNLAWFUL TRANSPORTATION OF ALIENS TO THE UNITED STATES.

(a) CRIMINAL PENALTIES.—[Omitted; amended subsection (a) of section 274.]

(b) MISCELLANEOUS AMENDMENTS TO SEIZURE AND FORFEITURE PROCEDURES.—[Omitted; amended subsection (b) of section 274.]

SEC. 113. IMMIGRATION EMERGENCY FUND.

[Omitted; added subsection (b) to § 404.]

SEC. 114. LIABILITY OF OWNERS AND OPERATORS OF INTERNATIONAL BRIDGES AND TOLL ROADS TO PREVENT THE UNAUTHORIZED LANDING OF ALIENS.

[Omitted; added subsection (c) to § 271.]

SEC. 115. ENFORCEMENT OF THE IMMIGRATION LAWS OF THE UNITED STATES.

It is the sense of the Congress that—

- (1) the immigration laws of the United States should be enforced vigorously and uniformly, and
- (2) in the enforcement of such laws, the Attorney General shall take due and deliberate actions necessary to safeguard the constitutional rights, personal safety, and human dignity of United States citizens and aliens.

SEC. 116. RESTRICTING WARRANTLESS ENTRY IN THE CASE OF OUTDOOR AGRICULTURAL OPERATIONS.

[Omitted; added a subsection (e) to § 287, as amended by § 2(e) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525).]

SEC. 117. RESTRICTIONS ON ADJUSTMENT OF STATUS.

[Omitted; amended section 245(c)(2).]

PART C—VERIFICATION OF STATUS UNDER CERTAIN PROGRAMS**SEC. 121. VERIFICATION OF IMMIGRATION STATUS OF ALIENS APPLYING FOR BENEFITS UNDER CERTAIN PROGRAMS.****(a) REQUIRING IMMIGRATION STATUS VERIFICATION.—**

(1) **UNDER AFDC, MEDICAID, UNEMPLOYMENT COMPENSATION, AND FOOD STAMP PROGRAMS.**—[Amended section 1137 of the Social Security Act (42 U.S.C. 1320b-7) by adding subsections (d) and (e). For such section, as amended, see Appendix II.B.2.]

(2) **UNDER HOUSING ASSISTANCE PROGRAMS.**—[Added subsections (d) and (e) to section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a). For such section 214, as amended, see Appendix II.B.2.]

(3) **UNDER TITLE IV EDUCATIONAL ASSISTANCE.**—[Added subsections (c), (d), and (e) to section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091). For such subsections, as amended, see Appendix II.B.2.]

(b) PROVIDING 100 PERCENT REIMBURSEMENT FOR COSTS OF IMPLEMENTATION AND OPERATION.—

(1) **UNDER AFDC PROGRAM.**—Section 403(a)(3) of the Social Security Act is amended by inserting before subparagraph (B) the following new subparagraph:
“(A) 100 percent of so much of such expenditures as are for the costs of the implementation and operation of the immigration status verification system described in section 1137(d).”

(2) **UNDER MEDICAID PROGRAM.**—Section 1903(a) of such Act is amended by inserting after paragraph (3) the following new paragraph:

“(4) an amount equal to 100 percent of the sums expended during the quarter which are attributable to the costs of the implementation and operation of the immigration status verification system described in section 1137(d); plus”.

(3) **UNDER UNEMPLOYMENT COMPENSATION PROGRAM.**—The first sentence of section 302(a) of such Act is amended by inserting before the period at the end the following: “, including 100 percent of so much of the reasonable expenditures of the State as are attributable to the costs of the implementation and operation of the immigration status verification system described in section 1137(d)”.

(4) **UNDER CERTAIN TERRITORIAL ASSISTANCE PROGRAMS.**—Sections 3(a)(4), 1003(a)(3), 1403(a)(3), and 1603(a)(4) of the Social Security Act (as in effect without regard to section 301 of the Social Security Amendments of 1972) are each amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

“(B) 100 percent of so much of such expenditures as are for the costs of the implementation and operation of the immigration status verification system described in section 1137(d); plus”.

(5) **UNDER THE FOOD STAMP PROGRAM.**—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by adding at the end the following new subsection:

"(h)¹ The Secretary is authorized to pay to each State agency an amount equal to 100 per centum of the costs incurred by the State agency in implementing and operating the immigration status verification system described in section 1137(d) of the Social Security Act."

(6) UNDER HOUSING ASSISTANCE PROGRAMS.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"PAYMENT FOR IMPLEMENTATION OF IMMIGRATION STATUS VERIFICATION SYSTEM

"SEC. 20. The Secretary is authorized to pay to each public housing authority an amount equal to 100 percent of the costs incurred by the authority in implementing and operating the immigration status verification system under section 214(c) of the Housing and Community Development Act of 1980 with respect to financial assistance made available pursuant to this Act."

(7) UNDER TITLE IV EDUCATIONAL ASSISTANCE.—Section 489(a) of the Higher Education Act of 1965 (20 U.S.C. 1096) is amended by adding at the end the following: "In addition, the Secretary shall provide for payment to each institution of higher education an amount equal to 100 percent of the costs incurred by the institution in implementing and operating the immigration status verification system under section 484(c)."

(c) EFFECTIVE DATES.—

(1) IMMIGRATION AND NATURALIZATION SERVICE ESTABLISHING VERIFICATION SYSTEM BY OCTOBER 1, 1987.—The Commissioner of Immigration and Naturalization Service shall implement a system for the verification of immigration status under paragraphs (3) and (4)(B)(i) of section 1137(d) of the Social Security Act (as amended by this section) so that the system is available to all the States by not later than October 1, 1987. Such system shall not be used by the Immigration and Naturalization Service for administrative (noncriminal) immigration enforcement purposes and shall be implemented in a manner that provides for verification of immigration status without regard to the sex, color, race, religion, or nationality of the individual involved.

(2) HIGHER MATCHING EFFECTIVE IN FISCAL YEAR 1988.—The amendments made by subsection (b) take effect on October 1, 1987.

(3) USE OF VERIFICATION SYSTEM REQUIRED IN FISCAL YEAR 1989.—Except as provided in paragraph (4), the amendments made by subsection (a) take effect on October 1, 1988. States have until that date to begin complying with the requirements imposed by those amendments.

(4) USE OF VERIFICATION SYSTEM NOT REQUIRED FOR A PROGRAM IN CERTAIN CASES.—

(A) REPORT TO RESPECTIVE CONGRESSIONAL COMMITTEES.—With respect to each covered program (as defined in subparagraph (D)(i)), each appropriate Secretary shall examine and report to the appropriate Committees of the House of Representatives and of the Senate, by not later than April 1, 1988, concerning whether (and the extent to which)—

(i) the application of the amendments made by subsection (a) to the program is cost-effective and otherwise appropriate, and

(ii) there should be a waiver of the application of such amendments under subparagraph (B).

The amendments made by subsection (a) shall not apply with respect to a covered program described in subclause (II), (V), (VI), or (VII) of subparagraph (D)(i) until after the date of receipt of such report with respect to the program.

(B) WAIVER IN CERTAIN CASES.—If, with respect to a covered program, the appropriate Secretary determines, on the Secretary's own initiative or upon an application by an administering entity and based on such information as the Secretary deems persuasive (which may include the results of the report required under subsection (d)(1) and information contained in such an application), that—

(i) the appropriate Secretary or the administering entity has in effect an alternative system of immigration status verification which—

(I) is as effective and timely as the system otherwise required under the amendments made by subsection (a) with respect to the program, and

¹ This subsection was redesignated as subsection (j) by § 321(c) of Pub. L. 100-435.

(II) provides for at least the hearing and appeals rights for beneficiaries that would be provided under the amendments made by subsection (a), or

(ii) the costs of administration of the system otherwise required under such amendments exceed the estimated savings, such Secretary may waive the application of such amendments to the covered program to the extent (by State or other geographic area or otherwise) that such determinations apply.

(C) BASIS FOR DETERMINATION.—A determination under subparagraph (B)(ii) shall be based upon the appropriate Secretary's estimate of—

(i) the number of aliens claiming benefits under the covered program in relation to the total number of claimants seeking benefits under the program,

(ii) any savings in benefit expenditures reasonably expected to result from implementation of the verification program, and

(iii) the labor and nonlabor costs of administration of the verification system,

the degree to which the Immigration and Naturalization Service is capable of providing timely and accurate information to the administering entity in order to permit a reliable determination of immigration status, and such other factors as such Secretary deems relevant.

(D) DEFINITIONS.—In this paragraph:

(i) The term "covered program" means each of the following programs:

(I) The aid to families with dependent children program under part A of title IV of the Social Security Act.

(II) The medicaid program under title XIX of the Social Security Act.

(III) Any State program under a plan approved under title I, X, XIV, or XVI of the Social Security Act.

(IV) The unemployment compensation program under section 3304 of the Internal Revenue Code of 1954.

(V) The food stamp program under the Food Stamp Act of 1977.

(VI) The programs of financial assistance for housing subject to section 214 of the Housing and Community Development Act of 1980.

(VII) The program of grants, loans, and work assistance under title IV of the Higher Education Act of 1965.

(ii) The term "appropriate Secretary" means, with respect to the covered program described in—

(I) subclauses (I) through (III) of clause (i), the Secretary of Health and Human Services;

(II) clause (i)(IV), the Secretary of Labor;

(III) clause (i)(V), the Secretary of Agriculture;

(IV) clause (i)(VI), the Secretary of Housing and Urban Development; and

(V) clause (i)(VII), the Secretary of Education.

(iii) The term "administering entity" means, with respect to the covered program described in—

(I) subclause (I), (II), (III), (IV), or (V) of clause (i), the State agency responsible for the administration of the program in a State;

(II) clause (i)(VI), the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance; and

(III) clause (i)(VII), an institution of higher education involved.

(5) FUNDS AUTHORIZED.—Such sums as may be necessary are authorized for the Immigration and Naturalization Service to carry out the purposes of this section.

(d) GAO REPORTS.—

(1) REPORT ON CURRENT PILOT PROJECTS.—The Comptroller General shall—

(A) examine current pilot projects relating to the System for Alien Verification of Eligibility (SAVE) operated by, or through cooperative agreements with, the Immigration and Naturalization Service, and

(B) report, not later than October 1, 1987, to Congress and to the Commissioner of the Immigration and Naturalization Service concerning the effectiveness of such projects and any problems with the implementation of

such projects, particularly as they may apply to implementation of the system referred to in subsection (c)(1).

(2) REPORT ON IMPLEMENTATION OF VERIFICATION SYSTEM.—The Comptroller General shall—

(A) monitor and analyze the implementation of such system,

(B) report to Congress and to the appropriate Secretaries described in subsection (c)(4)(D)(ii), by not later than April 1, 1989, on such implementation, and

(C) include in such report such recommendations for changes in the system as may be appropriate.

TITLE II—LEGALIZATION

SEC. 201. LEGALIZATION OF STATUS.

(a) PROVIDING FOR LEGALIZATION PROGRAM.—(1) [Omitted; inserted section 245A.]

(2) [Omitted; table of contents amendment.]

(b) CONFORMING AMENDMENTS.—[Omitted; conforming amendments to sections 402, 472(a), and 473(a)(1) of the Social Security Act.]

(c) MISCELLANEOUS PROVISIONS.—

(1) PROCEDURES FOR PROPERTY ACQUISITION OR LEASING.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Attorney General is authorized to expend from the appropriation provided for the administration and enforcement of the Immigration and Nationality Act, such amounts as may be necessary for the leasing or acquisition of property in the fulfillment of this section. This authority shall end two years after the effective date of the legalization program.

(2) USE OF RETIRED FEDERAL EMPLOYEES.—Notwithstanding any other provision of law, the retired or retainer pay of a member or former member of the Armed Forces of the United States or the pay and annuity of a retired employee of the Federal Government who retired on or before January 1, 1986, shall not be reduced while such individual is temporarily employed by the Immigration and Naturalization Service for a period of not to exceed 18 months to perform duties in connection with the adjustment of status of aliens under this section. The Service shall not temporarily employ more than 300 individuals under this paragraph. Notwithstanding any other provision of law, the annuity of a retired employee of the Federal Government shall not be increased or redetermined under chapter 83 or 84 of title 5, United States Code, as a result of a period of temporary employment under this paragraph.

SEC. 202. CUBAN-HAITIAN ADJUSTMENT.

(a) ADJUSTMENT OF STATUS.—The status of any alien described in subsection (b) may be adjusted by the Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien applies for such adjustment within two years after the date of the enactment of this Act;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (14), (15), (16), (17), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not apply and the Attorney General may, in his discretion, waive the ground for exclusion specified in paragraph (19) of such section;

(3) the alien is not an alien described in section 243(h)(2) of such Act;

(4) the alien is physically present in the United States on the date the application for such adjustment is filed; and

(5) the alien has continuously resided in the United States since January 1, 1982.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien—

(1) who has received an immigration designation as a Cuban/Haitian Entrant (Status Pending) as of the date of the enactment of this Act, or

(2) who is a national of Cuba or Haiti, who arrived in the United States before January 1, 1982, with respect to whom any record was established by the Immigration and Naturalization Service before January 1, 1982, and who (unless the alien filed an application for asylum with the Immigration and Nat-

uralization Service before January 1, 1982) was not admitted to the United States as a nonimmigrant.

(c) **NO AFFECT ON FASCELL-STONE BENEFITS.**—An alien who, as of the date of the enactment of this Act, is a Cuban and Haitian entrant for the purpose of section 501 of Public Law 96-422 shall continue to be considered such an entrant for such purpose without regard to any adjustment of status effected under this section.

(d) **RECORD OF PERMANENT RESIDENCE AS OF JANUARY 1, 1982.**—Upon approval of an alien's application for adjustment of status under subsection (a), the Attorney General shall establish a record of the alien's admission for permanent residence as of January 1, 1982.

(e) **NO OFFSET IN NUMBER OF VISAS AVAILABLE.**—When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act and the Attorney General shall not be required to charge the alien any fee.

(f) **APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.**—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

SEC. 203. UPDATING REGISTRY DATE TO JANUARY 1, 1972.

(a) **IN GENERAL.**—[Omitted; amended section 249.]

(b) **CONFORMING AMENDMENT TO TABLE OF CONTENTS.**—[Omitted.]

(c) **CLARIFICATION.**—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act shall not apply to aliens provided lawful permanent resident status under section 249 of that Act.

SEC. 204. STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS.

(a) **APPROPRIATION OF FUNDS.**—

(1) **IN GENERAL.**—(A) Out of any money in the Treasury not otherwise appropriated, there are appropriated to carry out this section (and including Federal, State, and local administrative costs) \$1,000,000,000 (less the amount described in paragraph (2)) for fiscal year 1988 and for each of the three succeeding fiscal years.

(B)² Funds appropriated for fiscal year 1990 under this section are reduced by \$555,244,000, and funds appropriated for fiscal year 1991 under this section are reduced by \$566,854,000.

(C)² For fiscal years 1993 and 1994 combined, there are appropriated to carry out this section for costs incurred on or after October 1, 1989 (including Federal, State, and local administrative costs) out of any money in the Treasury not otherwise appropriated, \$2,000,000,000 (less the amount described in paragraph (2) for each of fiscal years 1990 and 1991) less the amount made available for allotments to States under subsection (b) for fiscal year 1990 and for fiscal year 1991: *Provided*, That \$812,000,000 shall be available in fiscal year 1994 and the remainder of these funds shall be available in fiscal year 1993.

(2) **OFFSET.**—

(A) **IN GENERAL.**—Subject to subparagraphs (B) through (D), the amount described in this paragraph for a fiscal year is equal to the amount

² Subparagraphs (B) and (C) were added by the Department of Health and Human Services Appropriations Act, 1990 (title II of P.L. 101-166, 103 Stat. 1179, Nov. 21, 1989), and were further amended by the Department of Health and Human Services Appropriations Act, 1991 (Pub. L. 101-517, Nov. 5, 1990, 104 Stat. 2206). Subparagraph (C) was further amended by the Department of Health and Human Services Appropriations Act, 1992 (Pub. L. 102-170, Nov. 26, 1991, 105 Stat. 1124) by extending the provision to cover fiscal year 1993 and by the Department of Health and Human Services Appropriations Act, 1993 (Pub. L. 102-394, October 6, 1992, 106 Stat. 1808) by extending the provision to cover fiscal year 1994 and adding the proviso. Note that section 511 of the Department of Health and Human Services Appropriations Act, 1993 (Pub. L. 102-394, 106 Stat. 1826) provides as follows: "Notwithstanding any other provision of this Act, funds appropriated or otherwise made available which are not mandated by law for programs, projects or activities funded by this Act shall be reduced by .8 per centum." Subparagraph (C) shown reflecting amendment intended by §219(cc) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4319, Oct. 25, 1994), which had closed quotes after "appears" rather than after "year 1993".

estimated to be expended by the Federal Government in the fiscal year for the programs of financial assistance, medical assistance, and assistance under the Food Stamp Act of 1977 for aliens who would not be eligible for such assistance under paragraph (1)(A) of section 245A(h) of the Immigration and Nationality Act but for the provisions of paragraph (2) or paragraph (3) of such section.

(B) NO OFFSET FOR CERTAIN SSI ELIGIBLE INDIVIDUALS.—The amount described in this paragraph shall not include any amounts attributable to supplemental security benefits paid under title XVI of the Social Security Act or medical assistance furnished under a State plan approved under title XIX of the Social Security Act, in the case of an alien who is determined by the Secretary of Health and Human Services, based on an application for benefits under title XVI of the Social Security Act or section 212 of Public Law 93-66 filed prior to the date designated by the Attorney General in accordance with section 245A(a)(1)(A) of the Immigration and Nationality Act, to be permanently residing in the United States under color of law as provided in section 1614(a)(1)(B)(ii) of the Social Security Act and to be eligible to receive such benefits for the month prior to the month in which such date occurs, for such time as such alien continues without interruption to be eligible to receive such benefits in accordance with the provisions of title XVI of the Social Security Act or section 212 of Public Law 93-66, as appropriate.

(C) ESTIMATED INITIAL OFFSET.—For purposes of subparagraph (A), with respect to fiscal year 1988, the amount estimated to be expended is equal to \$70,000,000. For subsequent fiscal years, the amount estimated to be expended shall be such estimate as is contained in the annual fiscal budget submitted for that year to the Congress by the President.

(D) ADJUSTMENT FOR ESTIMATES.—If the actual amount of expenditures by the Federal Government described in subparagraph (A) for a fiscal year exceeds, or is less than, the amount estimated to be expended under subparagraph (C) for that year (taking into account any adjustment under this subparagraph), then for the subsequent fiscal year the amount described in this paragraph shall be decreased, or increased, respectively, by the amount of such excess or deficit for that previous fiscal year.

(b) ENTITLEMENT OF STATES.—(1) From the sums appropriated under subsection (a) for a fiscal year (less the amount reserved for Federal administrative costs), the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall allot to each State with an application approved under subsection (d)(1) an amount determined in accordance with a formula, established by the Secretary by regulation, which takes into account—

(A) the number of eligible legalized aliens (as defined in subsection (j)(4)) residing in the State in that fiscal year;

(B) the ratio of the number of eligible legalized aliens in the State to the total number of residents of that State and to the total number of such aliens in all the States in that fiscal year;

(C) the amount of expenditures the State is likely to incur in that fiscal year in providing assistance for eligible legalized aliens for which reimbursement or payment may be made under this section;

(D) the ratio of the amount of such expenditures in the State to the total of all such expenditures in all the States;

(E) adjustments for the difference in previous years between the State's actual expenditures (described in subparagraph (C)) incurred and the allocation provided the State under this section for those years; and

(F) such other factors as the Secretary deems appropriate to provide for an equitable distribution of such amounts.

(2) To the extent that all the funds appropriated under this section for a fiscal year are not otherwise allotted to States either because all the States have not qualified for such allotments under this section for the fiscal year or because some States have indicated in their description of activities that they do not intend to use, in that fiscal year or any succeeding fiscal year (before fiscal year 1995), the full amount of such allotments, such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.

(3) In determining the number of eligible legalized aliens for purposes of paragraph (1), the Secretary may estimate such number on the basis of such data as he may deem appropriate.

(4)^{2a} For each fiscal year the Secretary shall make payments, as provided by section 6503 of title 31, United States Code, to each State from its allotment under this subsection. Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the purposes for which it was made in subsequent fiscal years, but shall not remain available after September 30, 1994. Any funds not expended by States by December 30, 1994 shall be reallocated by the Secretary to States which had expended their entire allotments, based on each State's percentage share of total unreimbursed legalized alien costs in all States. Funds made available to a State pursuant to the preceding sentence of this paragraph shall be utilized by the State to reimburse all allowable costs within 90 days after a State has received a reallocation of funds from the Secretary, but in no event later than July 31, 1995.^{2a}

(5)³ For fiscal year 1993, the Secretary shall make allotments to States under paragraph (1) no later than October 15, 1992, *Provided*, That with respect to States in which total allowable unreimbursed State and local costs incurred prior to October 1, 1992 exceed \$100,000,000, within each such State's allocation, the State shall first reimburse all allowable costs incurred between October 1, 1990 and October 1, 1992, before reimbursing costs incurred on or after October 1, 1992, except for State and local administrative costs and for costs of services required to enable aliens granted temporary residence under section 245A(a) of the Immigration and Nationality Act to attain citizenship skills described in section 245A(b)(1)(D)(i) of the Immigration and Nationality Act: *Provided further*, That in reimbursing costs incurred prior to October 1, 1992, each State shall reimburse each provider at the same pro rata rate.

(c) PROVIDING ASSISTANCE.—(1) Of the amounts allotted to a State under this section, the State may only use such funds, in accordance with this section—

(A) for reimbursement of the costs of programs of public assistance provided with respect to eligible legalized aliens, for which such aliens were not disqualified under section 245A(h) of the Immigration and Nationality Act at the time of such assistance,

(B) for reimbursement of the costs of programs of public health assistance provided to any alien who is, or is applying on a timely basis to become, an eligible legalized alien,

(C) to make payments to State educational agencies for the purpose of assisting local educational agencies of that State in providing educational services for eligible legalized aliens,

(D)⁴ to make payments for public education and outreach (including the provision of information to individual applicants) to inform temporary resident aliens regarding—

(i) the requirements of sections 210, 210A, and 245A of the Immigration and Nationality Act regarding the adjustment of resident status,

(ii) sources of assistance for such aliens obtaining the adjustment of status described in clause (i), including educational, informational, referral services, and the rights and responsibilities of such aliens and aliens lawfully admitted for permanent residence,

(iii) the identification of health, employment, and social services, and

(iv) the importance of identifying oneself as a temporary resident alien to service providers,

except that nothing in this subparagraph may be construed as authorizing the provision of client counseling or any other service which would assume responsibility for the alien's application for the adjustment of status described in clause (i),

^{2a}Title II of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995 (P.L. 103-333, 108 Stat. 2558, Sept. 30, 1994) includes (under the heading "STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS (INCLUDING RESCISSION)") the following sentence: "Funds not obligated by the States by June 29, 1995, under section 204 of the Immigration Reform and Control Act of 1986 are hereby rescinded." In addition the last sentence of this paragraph was rewritten by the last proviso under that heading in that Act.

³Paragraph (5) was added by the Department of Health and Human Services Appropriations Act, 1992 (Pub. L. 101-170, Nov. 26, 1991, 105 Stat. 1124) and the provisos were added by the Department of Health and Human Services Appropriations Act, 1993 (Pub. L. 102-394, October 6, 1992, 105 Stat. 1808). The indentation is incorrect.

⁴§6(a) of the Immigration Nursing Relief Act of 1989 (Pub. L. 101-238, Dec. 18, 1989) inserted subparagraphs (D) and (E) to paragraph (1) and subparagraph (D) to paragraph (2), applicable, under §6(b) of such Act, to the use of allotments for fiscal years beginning with fiscal year 1989. An "and" is missing at the end of subparagraph (D).

(E)(i)³ subject to clause (ii), to make payments for education and outreach efforts by State agencies regarding unfair discrimination in employment practices based on national origin or citizenship status,

(ii) except that the State agencies shall not initiate such efforts until after such consultation with the Office of the Special Counsel for Unfair Immigration-Related Employment Practices as is appropriate to ensure, to the maximum extent feasible, a uniform program.

Subject to paragraph (2), the State may select the distribution of the use of such funds among such purposes.

(2)(A) Subject to subparagraphs (B) and (C), of the amounts allotted to a State under this section in any fiscal year, 10 percent shall be used by the State for reimbursement under paragraph (1)(A), 10 percent shall be used by the State for reimbursement under paragraph (1)(B), and 10 percent shall be used by the State for payments under paragraph (1)(C).

(B) If a State does not require the use of the full 10 percent provided under subparagraph (A) for a particular function described in a subparagraph of paragraph (1) for a fiscal year, the unused portion shall, subject to subparagraph (C), be equally distributed among the two other subparagraphs.

(C) In no case shall the funds provided under this section be used to provide reimbursement for more than 100 percent of the costs described in paragraph (1)(A) or (1)(B).

(D)³ Of the amount allotted to a State with respect to any fiscal year, a State may not use more than—

(i) 1 percent (or, if greater, \$100,000) for payments under paragraph (1)(D), and

(ii) 1 percent (or, if greater, \$100,000) for payments under paragraph (1)(E).

(3) To the extent that a State provides for the use of funds for the purpose described in paragraph (1)(C), the definitions and provisions of the Emergency Immigrant Education Act of 1984 (title VI of Public Law 98-511; 20 U.S.C. 4101 et seq.)⁵ shall apply to payments under such paragraph in the same manner as they apply to payments under that Act, except that, in applying this paragraph—

(A) any reference in such Act to “immigrant children” shall be deemed to be a reference to “eligible legalized aliens” (including such aliens who are over 16 years of age) during the 60-month period beginning with the first month in which such an alien is granted temporary lawful residence under the Immigration and Nationality Act;

(B) in determining the amount of payment with respect to eligible legalized aliens who are over 16 years of age, the phrase “described under paragraph (2)” shall be deemed to be stricken from section 606(b)(1)(A) of such Act (20 U.S.C. 4105(b)(1)(A));⁶

(C) the State educational agency may provide such educational services to adult eligible legalized aliens through local educational agencies and other public and private nonprofit organizations, including community-based organizations of demonstrated effectiveness; and

(D) such services may include English language and other programs designed to enable such aliens to attain the citizenship skills described in section 245A(b)(1)(D)(i) of the Immigration and Nationality Act.

(d) STATEMENTS AND ASSURANCES.—(1) No State is eligible for payment under subsection (b) unless the State—

(A) has filed with, and had approved by, the Secretary an application containing such information, including the information described in paragraph (2) and criteria for and administrative methods of disbursing funds received under this section, as the Secretary determines to be necessary to carry out this section, and

(B) transmits to the Secretary a statement of assurances that certifies that (i) funds allotted to the State under this section will only be used to carry out the purposes described in subsection (c)(1), (ii) the State will provide a fair method (as determined by the State) for the allocation of funds among State and local agencies in accordance with paragraph (2) and subsection (c)(2), and (iii) fiscal control and fund accounting procedures will be established that are adequate to meet the requirements of paragraph (2) and subsections (e) and (f).

(2) The application of each State under this subsection for each fiscal year must include detailed information on—

(A) the number of eligible legalized aliens residing in the State, and

NOTE.—See footnote 3 on previous page.

⁵ For text of the Emergency Immigrant Education Act of 1984, see Appendix II.C.

⁶ Reference should be to “section 7304(b)(1) of such Act (20 U.S.C. 7544(b)(1))”.

(B) the costs (excluding any such costs otherwise paid from Federal funds) which the State and each locality is likely to incur for the purposes described in subsection (c)(1).

(e) **REPORTS AND AUDITS.**—(1)(A) Each State shall prepare and submit to the Secretary annual reports on its activities under this section. In order to properly evaluate and to compare the performance of different States assisted under this section and to assure the proper expenditure of funds under this section, such reports shall be in such form and contain such information as the Secretary determines (after consultation with the States and the Comptroller General) to be necessary—

- (i) to secure an accurate description of those activities,
- (ii) to secure a complete record of the purposes for which funds were spent and of the recipients of such funds, and
- (iii) to determine the extent to which funds were expended consistent with this section.

Copies of the report shall be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

(B) The Secretary shall annually report to the Congress on activities funded under this section and shall provide for transmittal of a copy of such report to each State.

(2)(A) For requirements relating to audits of funds received by a State under this section, see chapter 75 of title 31, United States Code (relating to requirements for single audit).

(B) Each State shall repay to the United States amounts ultimately found not to have been expended in accordance with this section, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this section.

(C) The Secretary may, after notice and opportunity for a hearing, withhold payment of funds to any State which is not using its allotment under this section in accordance with this section. The Secretary may withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

(3) The State shall make copies of the reports and audits required by this subsection available for public inspection within the State.

(4)(A) For the purpose of evaluating and reviewing the assistance provided under this section, the Secretary and the Comptroller General shall have access to any books, accounts, records, correspondence, or other documents that are related to such assistance, and that are in the possession, custody, or control of States, political subdivisions thereof, or any of their grantees.

(B) In conjunction with an evaluation or review under subparagraph (A), no State or political subdivision thereof (or grantee of either) shall be required to create or prepare new records to comply with subparagraph (A).

(f) **LIMITATION ON PAYMENTS.**—(1) Payment under this section shall not be made for costs to the extent the costs are otherwise reimbursed or paid for under other Federal programs.

(2) Payment may only be made to a State with respect to costs for assistance of a program of public assistance or a program of public health assistance to the extent such assistance is otherwise generally available under such programs to citizens residing in the State.

(g) **CRIMINAL PENALTIES FOR FALSE STATEMENTS.**—Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or misrepresentation of a material fact in connection with the furnishing of assistance or services for which payment may be made by a State from funds allotted to the State under this section, or

(2) having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized,

shall be fined in accordance with title 18, United States Code, imprisoned for not more than five years, or both.

(h) **ANTI-DISCRIMINATION PROVISION.**—(1)(A) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this section are considered to be programs and activities receiving Federal financial assistance.

(B) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this section.

(2) Whenever the Secretary finds that a State or locality which has been provided payment from an allotment under this section has failed to comply with a provision of law referred to in paragraph (1)(A), with paragraph (1)(B), or with an applicable regulation (including one prescribed to carry out paragraph (1)(B)), he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

(B) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

(C) take such other action as may be provided by law.

(3) When a matter is referred to the Attorney General pursuant to paragraph (2)(A), or whenever he has reason to believe that the entity is engaged in a pattern or practice in violation of a provision of law referred to in paragraph (1)(A) or in violation of paragraph (1)(B), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(i) CONSULTATION WITH STATE AND LOCAL OFFICIALS.—In establishing regulations and guidelines to carry out this section, the Secretary shall consult with representatives of State and local governments.

(j) DEFINITIONS.—For purposes of this section:

(1) The term “State” has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

(2) The term “programs of public assistance” means programs in a State or local jurisdiction which—

(A) provide for cash, medical, or other assistance (as defined by the Secretary) designed to meet the basic subsistence or health needs of individuals,

(B) are generally available to needy individuals residing in the State or locality, and

(C) receive funding from units of State or local government.

(3) The term “programs of public health assistance” means programs in a State or local jurisdiction which—

(A) provide public health services, including immunizations for immunizable diseases, testing and treatment for tuberculosis and sexually-transmitted diseases, and family planning services,

(B) are generally available to needy individuals residing in the State or locality, and

(C) receive funding from units of State or local government.

(4) The term “eligible legalized alien” means an alien who has been granted lawful temporary resident status under section 210, 210A, or 245A of the Immigration and Nationality Act, but only until the end of the five-year period beginning on the date the alien was first granted such status, except^{6a} that the five-year limitation shall not apply for the purposes of making payments from funds appropriated under the fiscal year 1995 Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act for providing public information and outreach activities regarding naturalization and citizenship; and English language and civics instruction to any adult eligible legalized alien who has not met the requirements of section 312 of the Immigration and Nationality Act for purposes of becoming naturalized as a citizen of the United States.

^{6a} The matter beginning with “, except” was inserted by the third proviso under the heading “STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS (INCLUDING RESCISSION)” in title II of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995 (P.L. 103-333, 108 Stat. 2558, Sept. 30, 1994); reference should have been to “Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995”.

TITLE III—REFORM OF LEGAL IMMIGRATION

PART A—TEMPORARY AGRICULTURAL WORKERS

SEC. 301. H-2A AGRICULTURAL WORKERS.

(a) PROVIDING NEW “H-2A” NONIMMIGRANT CLASSIFICATION FOR TEMPORARY AGRICULTURAL LABOR.—[Omitted; amended § 101(a)(15)(H)(ii).]

(b) INVOLVEMENT OF DEPARTMENTS OF LABOR AND AGRICULTURE IN H-2A PROGRAM.—[Omitted; added a sentence at the end of § 214(c).]

(c) ADMISSION OF H-2A WORKERS.—[Omitted; added § 218, as redesignated by § 2(l)(2) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2612).]

(d) EFFECTIVE DATE.—The amendments made by this section apply to petitions and applications filed under sections 214(c) and 218 of the Immigration and Nationality Act on or after the first day of the seventh month beginning after the date of the enactment of this Act (hereinafter in this section referred to as the “effective date”).

(e) REGULATIONS.—The Attorney General, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall approve all regulations to be issued implementing sections 101(a)(15)(H)(ii)(a) and 218 of the Immigration and Nationality Act. Notwithstanding any other provision of law, final regulations to implement such sections shall first be issued, on an interim or other basis, not later than the effective date.

(f) SENSE OF CONGRESS RESPECTING CONSULTATION WITH MEXICO.—It is the sense of Congress that the President should establish an advisory commission which shall consult with the Governments of Mexico and of other appropriate countries and advise the Attorney General regarding the operation of the alien temporary worker program established under section 218 of the Immigration and Nationality Act.

(g) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—[Omitted.]

SEC. 302. LAWFUL RESIDENCE FOR CERTAIN SPECIAL AGRICULTURAL WORKERS.

(a) IN GENERAL.—[Omitted; added § 210.]

(2) [Omitted; conforming amendment to table of contents.]

(b) CONFORMING AMENDMENTS.—[Omitted; conforming amendments to Sections 402(f) and 472(a) of the Social Security Act.]

SEC. 303. DETERMINATIONS OF AGRICULTURAL LABOR SHORTAGES AND ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS.

(a) IN GENERAL.—[Omitted; added § 210A.]

(b) DEPORTATION OF CERTAIN WORKERS WHO FAIL TO PERFORM SEASONAL AGRICULTURAL SERVICES.—[Omitted; added paragraph (20) to § 241(a).]

(c)⁷ CLERICAL AMENDMENT.—[Omitted; conforming amendment to table of contents.]

(e) CONFORMING AMENDMENTS.—[Omitted; amended sections 402(f) and 472(a) of the Social Security Act.]

SEC. 304. COMMISSION ON AGRICULTURAL WORKERS.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—(1) There is established a Commission on Agricultural Workers (hereinafter in this section referred to as the “Commission”), to be composed of 12 members—

(A) six to be appointed by the President,

(B) three be appointed by the Speaker of the House of Representatives, and

(C) three to be appointed by the President pro tempore of the Senate.

(2) In making appointments under paragraph (1)(A), the President shall consult—

⁷ Subsection (c), relating to application of certain State assistance provisions of § 204 of the Immigration Reform and Control Act of 1986 to aliens lawfully admitted for permanent or temporary residence under § 210 or 210A of the Immigration and Nationality Act, was stricken by § 2(n)(3) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2613); it formerly read as follows:

(c) APPLICATION OF CERTAIN STATE ASSISTANCE PROVISIONS.—For purposes of section 204 of this Act (relating to State legalization assistance), the term “eligible legalized alien” includes an alien who becomes an alien lawfully admitted for permanent or temporary residence under section 210 or 210A of the Immigration and Nationality Act, but only until the end of the 5-year period beginning on the date the alien was first granted permanent or temporary resident status.

- (A) with the Attorney General in appointing two members,
 - (B) with the Secretary of Labor in appointing two members, and
 - (C) with the Secretary of Agriculture in appointing two members.
- (3) A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.
- (4) Members shall be appointed to serve for the life of the Commission.
- (b) FUNCTIONS OF COMMISSION.—(1) The Commission shall review the following:
- (A) The impact of the special agricultural worker provisions on the wages and working conditions of domestic farmworkers, on the adequacy of the supply of agricultural labor, and on the ability of agricultural workers to organize.
 - (B) The extent to which aliens who have obtained lawful permanent or temporary resident status under the special agricultural worker provisions continue to perform seasonal agricultural services and the requirement that aliens who become special agricultural workers under section 210A of the Immigration and Nationality Act perform 90 man-days of seasonal agricultural services for certain periods in order to avoid deportation or to become naturalized.
 - (C) The impact of the legalization program and the employers' sanctions on the supply of agricultural labor.
 - (D) The extent to which the agricultural industry relies on the employment of a temporary workforce.
 - (E) The adequacy of the supply of agricultural labor in the United States and whether this supply needs to be further supplemented with foreign labor and the appropriateness of the numerical limitation on additional special agricultural workers imposed under section 210A(b) of the Immigration and Nationality Act.
 - (F) The extent of unemployment and underemployment of farmworkers who are United States citizens or aliens lawfully admitted for permanent residence.
 - (G) The extent to which the problems of agricultural employers in securing labor are related to the lack of modern labor-management techniques in agriculture.
 - (H) Whether certain geographic regions need special programs or provisions to meet their unique needs for agricultural labor.
 - (I) Impact of the special agricultural worker provisions on the ability of crops harvested in the United States to compete in international markets.
- (2) The Commission shall conduct an overall evaluation of the special agricultural worker provisions, including the process for determining whether or not an agricultural labor shortage exists.
- (c) REPORT TO CONGRESS.—The Commission shall report to the Congress not later than six⁸ years after the date of the enactment of this Act on its reviews under subsection (b). The Commission shall include in its report recommendations for appropriate changes that should be made in the special agricultural worker provisions.
- (d) COMPENSATION OF MEMBERS.—(1) Each member of the Commission who is not an officer or employee of the Federal Government is entitled to receive, subject to such amounts as are provided in advance in appropriations Acts, the daily equivalent of the minimum annual rate of basic pay in effect for grade GS-18 of the General Schedule^{8a} for each day (including traveltime) during which the member is engaged in the actual performance of duties of the Commission. Each member of the Commission who is such an officer or employee shall serve without additional pay.
- (2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.
- (e) MEETINGS OF COMMISSION.—(1) Five members of the Commission shall constitute a quorum, but a lesser number may hold hearings.
- (2) The Chairman and the Vice Chairman of the Commission shall be elected by the members of the Commission for the life of the Commission.
- (3) The Commission shall meet at the call of the Chairman or a majority of its members.
- (f) STAFF.—(1) The Chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such

⁸ § 704(a) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5086) substituted six years for five years in subsection (c) and 75 months for 63 months in subsection (i).

^{8a} Under § 101(c)(1)(A)(i) of the Treasury, Postal Service and General Government Appropriations Act, 1991 (P.L. 101-509, 105 Stat. 1442, Nov. 5, 1990), the reference in this section to the rate of pay in effect for grade GS-18 of the General Schedule is considered a reference to the maximum rate payable under section 5376 of title 5, United States Code, as amended by section 102(a) of that Act.

other additional personnel as may be necessary to enable the Commission to carry out its functions, without regard to the laws, rules, and regulations governing appointment and compensation and other conditions of service in the competitive service.⁹ Any Federal employee subject to those laws, rules, and regulations may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(2) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the minimum annual rate of basic pay payable for GS-18 of the General Schedule ^{8a}.

(g) **AUTHORITY OF COMMISSION.**—(1) The Commission may for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate.

(2) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of such department or agency shall furnish such information to the Commission.

(3) The Commission may accept, use, and dispose of gifts or donations of services or property.

(4) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—(1) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(2) Notwithstanding any other provision of this section, the authority to make payments, or to enter into contracts, under this section shall be effective only to such extent, or in such amounts, as are provided in advance in appropriations Acts.

(i) **TERMINATION DATE.**—The Commission shall cease to exist at the end of the 75-month⁸ period beginning with the month after the month in which this Act is enacted.

(j) **DEFINITIONS.**—In this section:

(1) The term “employer sanctions” means the provisions of section 274A of the Immigration and Nationality Act.

(2) The term “legalization program” refers to the provisions of section 245A of the Immigration and Nationality Act.

(3) The term “seasonal agricultural services” has the meaning given such term in section 210(h) of the Immigration and Nationality Act.

(4) The term “special agricultural worker provisions” refers to sections 210 and 210A of the Immigration and Nationality Act.

SEC. 305. ELIGIBILITY OF H-2 AGRICULTURAL WORKERS FOR CERTAIN LEGAL ASSISTANCE.

A nonimmigrant worker admitted to or permitted to remain in the United States under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) for agricultural labor or service shall be considered to be an alien described in section 101(a)(20) of such Act (8 U.S.C. 1101(a)(20)) for purposes of establishing eligibility for legal assistance under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.), but only with respect to legal assistance on matters relating to wages, housing, transportation, and other employment rights as provided in the worker's specific contract under which the nonimmigrant was admitted.

Part B—Other Changes in the Immigration Law

SEC. 311. CHANGE IN COLONIAL QUOTA.

(a) **INCREASE TO 5,000.**—[Omitted; amended subsections (c) and (e) of section 202.]

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to fiscal years beginning after the date of the enactment of this Act.

⁹ § 704(b) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5086) substituted “and compensation and other conditions of service in the civil service” for “competitive service”. This was corrected by the amendment made by § 308(b) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1757).

SEC. 312. G-IV SPECIAL IMMIGRANTS.

(a) SPECIAL IMMIGRANT STATUS FOR CERTAIN OFFICERS AND EMPLOYEES OF INTERNATIONAL ORGANIZATIONS AND THEIR IMMEDIATE FAMILY MEMBERS.—[Omitted; added subparagraph (I) to § 101(a)(27).]

(b) NONIMMIGRANT STATUS FOR CERTAIN PARENTS AND CHILDREN OF ALIENS GIVEN SPECIAL IMMIGRANT STATUS.—[Omitted; added subparagraph (N) to § 101(a)(15).]

SEC. 313. VISA WAIVER PILOT PROGRAM FOR CERTAIN VISITORS.

(a) ESTABLISHING VISA WAIVER PILOT PROGRAM.—[Omitted; added § 217.]

(b) LIMITATION ON STAY IN UNITED STATES.—[Omitted; added sentence at end of § 214(a).]

(c) PROHIBITION OF ADJUSTMENT TO IMMIGRANT STATUS.—[Omitted; added clause (4) at end of § 245(c).]

(d) PROHIBITION OF ADJUSTMENT OF NONIMMIGRANT STATUS.—[Omitted; as amended by § 2(p)(3)(B) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2613), added paragraph (4) at end of § 248.]

(e) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—[Omitted.]

SEC. 314. MAKING VISAS AVAILABLE TO NONPREFERENCE IMMIGRANTS.

(a) AUTHORIZATION OF ADDITIONAL VISAS.—Notwithstanding the numerical limitations in section 201(a) of the Immigration and Nationality Act (8 U.S.C. 1151(a)), but subject to the numerical limitations in section 202 of such Act, there shall be made available to qualified immigrants described in section 203(a)(7) of such Act 5,000 visa numbers in each of fiscal years 1987 and 1988 and 15,000¹⁰ visas in each of fiscal years 1989 and 1990.

(b) DISTRIBUTION OF VISA NUMBERS.—The Secretary of State shall provide for making visa numbers provided under subsection (a) available in the same manner as visa numbers are otherwise made available to qualified immigrants under section 203(a)(7) of the Immigration and Nationality Act, except that—

(1) the Secretary shall first make such visa numbers available to qualified immigrants who are natives of foreign states the immigration of whose natives to the United States was adversely affected by the enactment of Public Law 89-236,¹¹ and

(2) within groups of qualified immigrants, such visa numbers shall be made available strictly in the chronological order in which they qualify after the date of the enactment of this Act.

(c) WAIVER OF LABOR CERTIFICATION.—Section 212(a)(14) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(14)) shall not apply in the determination of an immigrant's eligibility to receive any visa made available under this section or in the admission of such an immigrant issued such a visa under this section.

(d) APPLICATION OF DEFINITIONS OF IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this sec-

¹⁰ Subsection (a) of § 2 of the Immigration Amendments of 1988 (Pub. L. 100-658, Nov. 15, 1988) provided additional visas for fiscal years 1989 and 1990. Subsection (b) of that section provides as follows:

(b) ADMINISTRATION.—In carrying out the amendment made by subsection (a), the Secretary of State shall continue to use the list of qualified immigrants established under section 314 of the Immigration Reform and Control Act of 1986 before the date of the enactment of this Act, and may continue to carry out such section under the regulations in effect (as of the date of July 1, 1988) under part 43 of title 22 of the Code of Federal Regulations.

¹¹ The Department of State used the following definition for the determination of "adversely affected" areas: Foreign chargeability areas whose average annual rate of immigration to the United States during the period from July 1, 1966 to September 30, 1985 (i.e., during the full fiscal years after enactment of P.L. 89-236) was less than their average annual rate of immigration to the United States during the period from July 1, 1953 to June 30, 1965 (i.e., the full fiscal years between enactment of the INA in 1952 and P.L. 89-236 in 1965). A foreign state's average annual rate of immigration during these periods was determined by totalling the number of natives of the foreign state who were admitted to the United States for permanent residence (as reflected in annual figures of immigrants reported by the Immigration and Naturalization Service for each such period) and dividing each total by the number of fiscal years in the period; for purposes of these calculations each dependent area of a foreign state was considered separately from the governing country.

The following chargeability areas were identified as "adversely affected" for purposes of implementing this section: Albania, Algeria, Argentina, Austria, Belgium, Bermuda, Canada, Czechoslovakia, Denmark, Estonia, Finland, France, German Democratic Republic, Federal Republic of Germany, Gibraltar, Great Britain and Northern Ireland, Guadeloupe, Hungary, Iceland, Indonesia, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, New Caledonia, Netherlands, Norway, Poland, San Marino, Sweden, Switzerland, and Tunisia.

tion. Nothing in this section shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization.

SEC. 315. MISCELLANEOUS PROVISIONS.

(a) **EQUAL TREATMENT OF FATHERS.**—Section 101(b)(1)(D) (8 U.S.C. 1101(b)(1)(D)) is amended by inserting “or to its natural father if the father has or had a bona fide parent-child relationship with the person” after “natural mother”.¹²

(b) **SUSPENSION OF DEPORTATION FOR CERTAIN ALIENS.**—[Omitted; added a paragraph (2) at the end of § 244(b).]

(c) **SENSE OF CONGRESS RESPECTING TREATMENT OF CUBAN POLITICAL PRISONERS.**—It is the sense of the Congress that the Secretary of State should provide for the issuance of visas to nationals of Cuba who are or were imprisoned in Cuba for political activities without regard to section 243(g) of the Immigration and Nationality Act (8 U.S.C. 1253(g)).

(d) **DENIAL OF CREW MEMBER NONIMMIGRANT VISA IN CASES OF STRIKES.**—(1) Except as provided in paragraph (2), during the one-year period beginning on the date of the enactment of this Act, an alien may not be admitted to the United States as an alien crewman (under section 101(a)(15)(D) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(D)) for the purpose of performing service on board a vessel or aircraft at a time when there is a strike in the bargaining unit of the employer in which the alien intends to perform such service.

(2) Paragraph (1) shall not apply to an alien employee who was employed before the date of the strike concerned and who is seeking admission to enter the United States to continue to perform services as a crewman to the same extent and on the same routes as the alien performed such services before the date of the strike.

(e) The amendment made by subsection (b)(1) shall apply to applications submitted under section 244 of the Immigration and Nationality Act before, on, or after the date of the enactment of this Act; but shall not apply to aliens removed from the United States before the date of the enactment of this Act.

TITLE IV—REPORTS TO CONGRESS

SEC. 401. TRIENNIAL COMPREHENSIVE REPORT ON IMMIGRATION.

(a) **TRIENNIAL REPORT.**—The President shall transmit to the Congress, not later than January 1, 1989, and not later than January 1 of every third year thereafter, a comprehensive immigration-impact report.

(b) **DETAILS IN EACH REPORT.**—Each report shall include—

(1) the number and classification of aliens admitted (whether as immediate relatives, special immigrants, refugees, or under the preferences classifications, or as nonimmigrants), paroled, or granted asylum, during the relevant period;

(2) a reasonable estimate of the number of aliens who entered the United States during the period without visas or who became deportable during the period under section 241 of the Immigration and Nationality Act; and

(3) a description of the impact of admissions and other entries of immigrants, refugees, asylees, and parolees into the United States during the period on the economy, labor and housing markets, the educational system, social services, foreign policy, environmental quality and resources, the rate, size, and distribution of population growth in the United States, and the impact on specific States and local units of government of high rates of immigration resettlement.

(c) **HISTORY AND PROJECTIONS.**—The information (referred to in subsection (b)) contained in each report shall be—

(1) described for the preceding three-year period, and

(2) projected for the succeeding five-year period, based on reasonable estimates substantiated by the best available evidence.

(d) **RECOMMENDATIONS.**—The President also may include in such report any appropriate recommendations on changes in numerical limitations or other policies under title II of the Immigration and Nationality Act bearing on the admission and entry of such aliens to the United States.

SEC. 402. REPORTS ON UNAUTHORIZED ALIEN EMPLOYMENT.

The President shall transmit to Congress annual reports on the implementation of section 274A of the Immigration and Nationality Act (relating to unlawful em-

¹² Note that § 210(a) of Pub. L. 100-459 (102 Stat. 2203) amended § 101(b)(2) of the INA; the change was made permanent by § 611(a) of the Department of Justice Appropriations Act, 1990 (P.L. 101-162, 103 Stat. 1038-1039); see footnote 35 to such section.

ployment of aliens) during the first three years after its implementation. Each report shall include—

- (1) an analysis of the adequacy of the employment verification system provided under subsection (b) of that section;
- (2) a description of the status of the development and implementation of changes in that system under subsection (d) of that section, including the results of any demonstration projects conducted under paragraph (4) of such subsection; and
- (3) an analysis of the impact of the enforcement of that section on—
 - (A) the employment, wages, and working conditions of United States workers and on the economy of the United States,
 - (B) the number of aliens entering the United States illegally or who fail to maintain legal status after entry, and
 - (C) the violation of terms and conditions of nonimmigrant visas by foreign visitors.

SEC. 403. REPORTS ON H-2A PROGRAM.

(a) **PRESIDENTIAL REPORTS.**—The President shall transmit to the Committees on the Judiciary of the Senate and of the House of Representatives reports on the implementation of the temporary agricultural worker (H-2A) program, which shall include—

- (1) the number of foreign workers permitted to be employed under the program in each year;
- (2) the compliance of employers and foreign workers with the terms and conditions of the program;
- (3) the impact of the program on the labor needs of the United States agricultural employers and on the wages and working conditions of United States agricultural workers; and
- (4) recommendations for modifications of the program, including—
 - (A) improving the timeliness of decisions regarding admission of temporary foreign workers under the program,
 - (B) removing any economic disincentives to hiring United States citizens or permanent resident aliens for jobs for which temporary foreign workers have been requested,
 - (C) improving cooperation among government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign workers, and
 - (D) the relative benefits to domestic workers and burdens upon employers of a policy which requires employers, as a condition for certification under the program, to continue to accept qualified United States workers for employment after the date the H-2A workers depart for work with the employer.

The recommendations under subparagraph (D) shall be made in furtherance of the Congressional policy that aliens not be admitted under the H-2A program unless there are not sufficient workers in the United States who are able, willing, and qualified to perform the labor or services needed and that the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

(b) **DEADLINES.**—A report on the H-2A temporary worker program under subsection (a) shall be submitted not later than two years after the date of the enactment of this Act, and every two years thereafter.

SEC. 404. REPORTS ON LEGALIZATION PROGRAM.

(a) **IN GENERAL.**—The President shall transmit to Congress two reports on the legalization program established under section 245A of the Immigration and Nationality Act.

(b) **INITIAL REPORT DESCRIBING LEGALIZED ALIENS.**—The first report, which shall be transmitted not later than 18 months after the end of the application period for adjustment to lawful temporary residence status under the program, shall include a description of the population whose status is legalized under the program, including—

- (1) geographical origins and manner of entry of these aliens into the United States,
- (2) their demographic characteristics, and
- (3) a general profile and characteristics.

(c) **SECOND REPORT ON IMPACT OF LEGALIZATION PROGRAM.**—The second report, which shall be transmitted not later than three years after the date of transmittal of the first report, shall include a description of—

(1) the impact of the program on State and local governments and on public health and medical needs of individuals in the different regions of the United States,

(2) the patterns of employment of the legalized population, and

(3) the participation of legalized aliens in social service programs.

SEC. 405. REPORT ON VISA WAIVER PILOT PROGRAM.

(a) **MONITORING AND REPORT ON THE PILOT PROGRAM.**—The Attorney General and the Secretary of State shall jointly monitor the pilot program established under section 217 of the Immigration and Nationality Act and shall report to the Congress not later than two years after the beginning of the program.

(b) **DETAILS IN REPORT.**—The report shall include—

(1) an evaluation of the program, including its impact—

(A) on the control of alien visitors to the United States,

(B) on consular operations in the countries designated under the program, as well as on consular operations in other countries in which additional consular personnel have been relocated as a result of the implementation of the program, and

(C) on the United States tourism industry; and

(2) recommendations—

(A) on extending the pilot program period, and

(B) on increasing the number of countries that may be designated under the program.

SEC. 406. REPORT ON IMMIGRATION AND NATURALIZATION SERVICE.

Not later than 90 days after the date of the enactment of this Act, the Attorney General shall prepare and transmit to the Congress a report describing the type of equipment, physical structures, and personnel resources required to improve the capabilities of the Immigration and Naturalization Service so that it can adequately carry out services and enforcement activities, including those required to carry out the amendments made by this Act.

SEC. 407. SENSE OF THE CONGRESS.

It is the sense of the Congress that the President of the United States should consult with the President of the Republic of Mexico within 90 days after enactment of this Act regarding the implementation of this Act and its possible effect on the United States or Mexico. After the consultation, it is the sense of the Congress that the President should report to the Congress any legislative or administrative changes that may be necessary as a result of the consultation and the enactment of this legislation.

TITLE V—STATE ASSISTANCE FOR INCARCERATION COSTS OF ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS

SEC. 501. REIMBURSEMENT OF STATES FOR COSTS OF INCARCERATING ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS.

(a) **REIMBURSEMENT OF STATES.**—Subject to the amounts provided in advance in appropriation Acts, the Attorney General shall reimburse a State for the costs incurred by the State for the imprisonment of any illegal alien or Cuban national who is convicted of a felony by such State.

(b) **ILLEGAL ALIENS CONVICTED OF A FELONY.**—An illegal alien referred to in subsection (a) is any alien who is any alien convicted of a felony who is in the United States unlawfully and—

(1) whose most recent entry into the United States was without inspection, or

(2) whose most recent admission to the United States was as a non-immigrant and—

(A) whose period of authorized stay as a nonimmigrant expired, or

(B) whose unlawful status was known to the Government,

before the date of the commission of the crime for which the alien is convicted.

(c) **MARIELITO CUBANS CONVICTED OF A FELONY.**—A Marielito Cuban convicted of a felony referred to in subsection (a) is a national of Cuba who—

(1) was allowed by the Attorney General to come to the United States in 1980,

(2) after such arrival committed any violation of State or local law for which a term of imprisonment was imposed, and

(3) at the time of such arrival and at the time of such violation was not an alien lawfully admitted to the United States—

(A) for permanent or temporary residence, or

(B) under the terms of an immigrant visa or a nonimmigrant visa issued,

under the laws of the United States.

(d) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

(e) STATE DEFINED.—The term “State” has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

TITLE VI—COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

SEC. 601. COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—(1) There is established a Commission for the Study of International Migration and Cooperative Economic Development (in this section referred to as the “Commission”), to be composed of twelve members—

(A) three members to be appointed by Speaker of the House of Representatives;

(B) three members to be appointed by the Minority Leader of the House of Representatives;

(C) three members to be appointed by the Majority Leader of the Senate; and

(D) three members to be appointed by the Minority Leader of the Senate.

(2) Members shall be appointed for the life of the Commission. Appointments to the Commission shall be made within 90 days after the date of the enactment of this Act. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(3) A majority of the members of the Commission shall elect a Chairman.

(b) DUTY OF COMMISSION.—The Commission, in consultation with the governments of Mexico and other sending countries in the Western Hemisphere, shall examine the conditions in Mexico and such other sending countries which contribute to unauthorized migration to the United States and mutually beneficial, reciprocal trade and investment programs to alleviate such conditions. For purposes of this section, the term “sending country” means a foreign country a substantial number of whose nationals migrate to, or remain in, the United States without authorization.

(c) REPORT TO THE PRESIDENT AND CONGRESS.—Not later than three years after the appointment of the members of the Commission, the Commission shall prepare and transmit to the President and to the Congress a report describing the results of the Commission’s examination and recommending steps to provide mutually beneficial reciprocal trade and investment programs to alleviate conditions leading to unauthorized migration to the United States.

(d) COMPENSATION OF MEMBERS, MEETINGS, STAFF, AUTHORITY OF COMMISSION, AND AUTHORIZATION OF APPROPRIATIONS.—(1) The provisions of subsections (d), (e)(3), (f), (g), and (h) of section 304 shall apply to the Commission in the same manner as they apply to the Commission established under section 304.

(2) Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings. Not more than 1 percent of the amounts appropriated for the Commission may be used, at the sole discretion of the Chairman, for official entertainment.

(e) TERMINATION DATE.—The Commission shall terminate on the date on which a report is required to be transmitted by subsection (c), except that the Commission may continue to function for not more than thirty days thereafter for the purpose of concluding its activities.

TITLE VII—FEDERAL RESPONSIBILITY FOR DEPORTABLE AND EXCLUDABLE ALIENS CONVICTED OF CRIMES

SEC. 701. EXPEDITIOUS DEPORTATION OF CONVICTED ALIENS.

[Omitted; added subsection (i) at the end of § 242.]

SEC. 702. IDENTIFICATION OF FACILITIES TO INCARCERATE DEPORTABLE OR EXCLUDABLE ALIENS.

The President shall require the Secretary of Defense, in cooperation with the Attorney General and by not later than 60 days after the date of the enactment of this Act, to provide to the Attorney General a list of facilities of the Department of Defense that could be made available to the Bureau of Prisons for use in incarcerating aliens who are subject to exclusion or deportation from the United States.

2. SYSTEM FOR ALIEN VERIFICATION OF ELIGIBILITY (SAVE)

Various public welfare programs were amended, in §121(a) of the Immigration Reform and Control Act of 1986, to require a verification of immigration or citizenship status as a condition of eligibility for benefits under those programs. These provisions became effective under §121(c) of such Act. The provisions of those programs, as amended, are shown below. Note that significant changes in eligibility of aliens for a variety of Federal means-tested public programs, such as SSI, AFDC, Food Stamps, and Medicaid, are being actively considered by the Congress at the time of publication, particularly in connection with the Personal Responsibility Act of 1995 (H.R. 4, 104th Congress, 1st Session).

(a) **AFDC, MEDICAID, UNEMPLOYMENT COMPENSATION, AND FOOD STAMP PROGRAMS.**—Section 1137 of the Social Security Act (42 U.S.C. 1320b-7), as amended by section 121(a)(1) of the Immigration Reform and Control Act of 1986, by §411(k)(15)(A) of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100-360, 102 Stat. 799), and by §231 of the Social Security Act Amendments of 1994 (Pub. L. 103-432, 108 Stat. 4462), provides, in part, as follows:

SEC. 1137. (a) In order to meet the requirements of this section, a State must have in effect an income and eligibility verification system which meets the requirements of subsection (d) and * * *

* * * * *

(b) The programs which must participate in the income and eligibility verification system are—

- (1) the aid to families with dependent children program under part A of title IV of this Act;
- (2) the medicaid program under title XIX of this Act;
- (3) the unemployment compensation program under section 3304 of the Internal Revenue Code of 1954;
- (4) the food stamp program under the Food Stamp Act of 1977; and
- (5) any State program under a plan approved under title I, X, XIV, or XVI of this Act.

* * * * *

(d) The requirements of this subsection, with respect to an income and eligibility verification system of a State, are as follows:

- (1)(A) The State shall require, as a condition of an individual's eligibility for benefits under a program listed in subsection (b), a declaration in writing, under penalty of perjury—
 - (i) by the individual,
 - (ii) in the case in which eligibility for program benefits is determined on a family or household basis, by any adult member of such individual's family or household (as applicable), or
 - (iii) in the case of an individual born into a family or household receiving benefits under such program, by any adult member of such family or household no later than the next redetermination of eligibility of such family or household following the birth of such individual,

stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

(B) In this subsection—

(i) in the case of the program described in subsection (b)(1), any reference to an individual's eligibility for benefits under the program shall be considered a reference to the individual's being considered a dependent child or to the individual's being treated as a caretaker relative or other person whose needs are to be taken into account in making the determination under section 402(a)(7),

(ii) in the case of the program described in subsection (b)(4)—

(I) any reference to the State shall be considered a reference to the State agency, and

(II) any reference to an individual's eligibility for benefits under the program shall be considered a reference to the individual's eligibility to participate in the program as a member of a household, and

(III) the term "satisfactory immigration status" means an immigration status which does not make the individual ineligible for benefits under the applicable program.

(2) If such an individual is not a citizen or national of the United States, there must be presented either—

(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

(B) such other documents as the State determines constitutes reasonable evidence indicating a satisfactory immigration status.

(3) If the documentation described in paragraph (2)(A) is presented, the State shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with States) that—

(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

(B) protects the individual's privacy to the maximum degree possible.

(4) In the case of such an individual who is not a citizen or national of the United States, if, at the time of application for benefits, the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the State—

(i) shall provide a reasonable opportunity to submit to the State evidence indicating a satisfactory immigration status, and

(ii) may not delay, deny, reduce, or terminate the individual's eligibility for benefits under the program on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

(B) if there are submitted documents which the State determines constitutes reasonable evidence indicating such status—

(i) the State shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

(ii) pending such verification, the State may not delay, deny, reduce, or terminate the individual's eligibility for benefits under the program on the basis of the individual's immigration status, and

(iii) the State shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(5) If the State determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status under the applicable program—

(A) the State shall deny or terminate the individual's eligibility for benefits under the program, and

(B) the applicable fair hearing process shall be made available with respect to the individual.

(e) Each Federal agency responsible for administration of a program described in subsection (b) shall not take any compliance, disallowance, penalty, or other regulatory action against a State with respect to any error in the State's determination

to make an individual eligible for benefits based on citizenship or immigration status—

(1) if the State has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

(2) because the State, under subsection (d)(4)(A)(ii), was required to provide a reasonable opportunity to submit documentation,

(3) because the State, under subsection (d)(4)(B)(ii), was required to wait for the response of the Immigration and Naturalization Service to the State's request for official verification of the immigration status of the individual, or

(4) because of a fair hearing process described in subsection (d)(5)(B).

(f) Subsections (a)(1) and (d) shall not apply with respect to aliens seeking medical assistance for the treatment of an emergency medical condition under section 1903(v)(2).

(b) **HOUSING ASSISTANCE PROGRAMS.**—Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a), as added by §121(a)(2) of the Immigration Reform and Control Act of 1986 and as amended by §164 of the Housing and Community Development Act of 1987 (Public Law 100-242, February 5, 1988), provides as follows:

RESTRICTION ON USE OF ASSISTED HOUSING

SEC. 214. [42 U.S.C. 1436a] (a) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not make financial assistance available for the benefit of any alien unless that alien is a resident of the United States and is—

(1) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) and 8 U.S.C. 1101(a)(20)), excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;

(2) an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act (8 U.S.C. 1259);

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or pursuant to the granting of asylum (which has not been terminated) under section 208 of such Act (8 U.S.C. 1158);

(4) an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));

(5) an alien who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)); or

(6) an alien lawfully admitted for temporary or permanent residence under section 245A of the Immigration and Nationality Act.

(b) For purposes of this section the term "financial assistance" means financial assistance made available pursuant to the United States Housing Act of 1937, Section 235, or 236 of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965.

(c)(1) If, following completion of the applicable hearing process, financial assistance for any individual receiving such assistance on the date of the enactment of the Housing and Community Development Act of 1987 is to be terminated, the public housing agency or other local governmental entity involved (in the case of public housing or assistance under section 8 of the United States Housing Act of 1937) or the Secretary of Housing and Urban Development (in the case of any other financial assistance) may, in its discretion, take one of the following actions:

(A) Permit the continued provision of financial assistance, if necessary to avoid the division of a family in which the head of household or spouse is a citizen of the United States, a national of the United States, or an alien resident

of the United States described in any of paragraphs (1) through (6) of subsection (a). For purposes of this paragraph, the term "family" means a head of household, any spouse, any parents of the head of household, any parents of the spouse, and any children of the head of household or spouse.

(B) Defer the termination of financial assistance, if necessary to permit the orderly transition of the individual and any family members involved to other affordable housing. Any deferral under this subparagraph shall be for a 6-month period and may be renewed by the public housing agency or other entity involved for an aggregate period of 3 years. At the beginning of each deferral period, the public housing agency or other entity involved shall inform the individual and family members of their ineligibility for financial assistance and offer them other assistance in finding other affordable housing.

(2) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not make financial assistance available for the benefit of—

(A) any alien who—

(i) has a resident in a foreign country that such alien has no intention of abandoning;

(ii) is a bona fide student qualified to pursue a full course of study; and

(iii) is admitted to the United States temporarily and solely for purposes of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by such alien and approved by the Attorney General after consultation with the Department of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student (and if any such institution of learning or place of study fails to make such reports promptly the approval shall be withdrawn); and

(B) the alien spouse and minor children of any alien described in subparagraph (A), if accompanying such alien or following to join such alien.

(d)* The following conditions apply with respect to financial assistance being provided for the benefit of an individual:

(1)(A) There must be a declaration in writing by the individual (or, in the case of an individual who is a child, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

(B) In this subsection, the term "satisfactory immigration status" means an immigration status which does not make the individual ineligible for financial assistance.

(2) If such an individual is not a citizen or national of the United States, is not 62 years of age or older, and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987, there must be presented either—

(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

(B) such other documents as the Secretary determines constitutes reasonable evidence indicating a satisfactory immigration status.

(3) If the documentation described in paragraph (2)(A) is presented, the Secretary shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration

* Subsection (d), as added by § 121(a)(2) of IRCA and amended by § 164(c) of Public Law 100-242, took effect on October 1, 1988. Section 164(g) of Public Law 100-242 provides as follows:

(g) TRANSITIONAL CERTIFICATION AND DOCUMENTATION PROVISIONS.—In carrying out section 214 of the Housing and Community Development Act of 1980 during fiscal year 1988, the Secretary of Housing and Urban Development shall require, as a condition of providing financial assistance for the benefit of any individual, that such individual—

(1) declare in writing, under penalty of perjury, whether or not such individual is a citizen or national of the United States; and

(2) if not a citizen or national—

(A) declare in writing, under penalty of perjury, the immigration status of such individual, if such individual is not less than 62 years of age and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987; or

(B) provide such documentation regarding the immigration status of such individual as the Secretary may require by regulation.

status through an automated or other system (designated by the Service for use with States) that—

(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

(B) protects the individual's privacy to the maximum degree possible.

(4) In the case of such an individual who is not a citizen or national of the United States, is not 62 years of age or older, and is receiving financial assistance on the date of enactment of the Housing and Community Development Act of 1987, if, at the time of application or recertification for financial assistance, the statement described in paragraph (1) is submitted but the documentation required under paragraph (2)(A) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the Secretary—

(i) shall provide a reasonable opportunity to submit to the Secretary evidence indicating a satisfactory immigration status, or to appeal to the Immigration and Naturalization Service the verification determination of the Immigration and Naturalization Service under paragraph (3), and

(ii) may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

(B) if any documents or additional information are submitted as evidence under subparagraph (A), or if appeal is made to the Immigration and Naturalization Service with respect to the verification determination of the Service under paragraph (3)—

(i) the Secretary shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents or additional information for official verification,

(ii) pending such verification or appeal, the Secretary may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status, and

(iii) the Secretary shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(5) If the Secretary determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status—

(A) the Secretary shall deny or terminate the individual's eligibility for financial assistance, and

(B) the applicable fair hearing process shall be made available with respect to the individual.

(6) For purposes of paragraph (5)(B), the applicable fair hearing process made available with respect to any individual shall include not less than the following procedural protections:

(A) The Secretary shall provide the individual with written notice of the determination described in paragraph (5) and of the opportunity for a hearing with respect to the determination.

(B) Upon timely request by the individual, the Secretary shall provide a hearing before an impartial hearing officer designated by the Secretary, at which hearing the individual may produce evidence of a satisfactory immigration status.

(C) The Secretary shall notify the individual in writing of the decision of the hearing officer on the appeal of the determination in a timely manner.

(D) Financial assistance may not be denied or terminated until the completion of the hearing process.

For purposes of this subsection, the term "Secretary" means the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance.

(e) The Secretary of Housing and Urban Development shall not take any compliance, disallowance, penalty, or other regulatory action against an entity with respect to any error in the entity's determination to make an individual eligible for financial assistance based on citizenship or immigration status—

(1) if the entity has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

(2) because the entity, under subsection (d)(4)(A)(ii) (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of

1986 (Public Law 99-603)), was required to provide a reasonable opportunity to submit documentation,

(3) because the entity, under subsection (d)(4)(B)(ii) (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603)), was required to wait for the response of the Immigration and Naturalization Service to the entity's request for official verification of the immigration status of the individual, or

(4) because of a fair hearing process described in subsection (d)(5)(B) (or provided for under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603)).

(f)(1) Notwithstanding any other provision of law, no agency or official of a State or local government shall have any liability for the design or implementation of the Federal verification system described in subsection (d) if the implementation by the State or local agency or official is in accordance with Federal rules and regulations.

(2) The verification system of the Department of Housing and Urban Development shall not supersede or affect any consent agreement entered into or court decree or court order entered into prior to the date of the enactment of the Housing and Community Development Act of 1987.

(g) The Secretary of Housing and Urban Development is authorized to pay to each public housing agency or other entity an amount equal to 100 percent of the costs incurred by the public housing agency or other entity in implementing and operating an immigration status verification system under subsection (d) (or any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603)).

(c) **TITLE IV EDUCATIONAL ASSISTANCE.**—Subsections (a) and (g) through (j) of section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091), as first added by §121(a)(3) of the Immigration Reform and Control Act of 1986 and subsequently amended through Pub. L. 103-208, provide as follows:

SEC. 484. STUDENT ELIGIBILITY.

(a) **IN GENERAL.**—In order to receive any grant, loan, or work assistance under this title, a student must—

(1) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which such student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487, except as provided in subsections (b)(3) and (b)(4), and not be enrolled in an elementary or secondary school;

(2) if the student is presently enrolled at an institution, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with the provisions of subsection (c);

(3) not owe a refund on grants previously received at any institution under this title, or be in default on any loan from a student loan fund at any institution provided for in part E, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

(4) file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a document, which need not be notarized, but which shall include—

(A) a statement of educational purpose stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and

(B) such student's social security number, except that the provisions of this subparagraph shall not apply to a student from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau;

(5) be a citizen or national of the United States, a permanent resident of the United States, able to provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident,

or a permanent resident of the Trust Territory of the Pacific Islands, Guam, or the Northern Mariana Islands.

* * * * *

(g) VERIFICATION OF IMMIGRATION STATUS.—

(1) IN GENERAL.—The Secretary shall implement a system under which the statements and supporting documentation, if required, of an individual declaring that such individual is in compliance with the requirements of subsection (a)(5) shall be verified prior to the individual's receipt of a grant, loan, or work assistance under this title.

(2) SPECIAL RULE.—The documents collected and maintained by an eligible institution in the admission of a student to the institution may be used by the student in lieu of the documents used to establish both employment authorization and identity under section 274A(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1324a) to verify eligibility to participate in work-study programs under part C of this title.

(3) VERIFICATION MECHANISMS.—The Secretary is authorized to verify such statements and supporting documentation through a data match, using an automated or other system, with other Federal agencies that may be in possession of information relevant to such statements and supporting documentation.

(4) REVIEW.—In the case of such an individual who is not a citizen or national of the United States, if the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the institution—

(i) shall provide a reasonable opportunity to submit to the institution evidence indicating a satisfactory immigration status, and

(ii) may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

(B) if there are submitted documents which the institution determines constitute reasonable evidence indicating such status—

(i) the institution shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

(ii) pending such verification, the institution may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status, and

(iii) the institution shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(h) LIMITATIONS OF ENFORCEMENT ACTIONS AGAINST INSTITUTIONS.—The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an institution of higher education with respect to any error in the institution's determination to make a student eligible for a grant, loan, or work assistance based on citizenship or immigration status—

(1) if the institution has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

(2) because the institution, under subsection (h)(4)(A)(i), was required to provide a reasonable opportunity to submit documentation, or

(3) because the institution, under subsection (h)(4)(B)(i), was required to wait for the response of the Immigration and Naturalization Service to the institution's request for official verification of the immigration status of the student.

(i) VALIDITY OF LOAN GUARANTEES FOR LOAN PAYMENTS MADE BEFORE IMMIGRATION STATUS VERIFICATION COMPLETED.—Notwithstanding subsection (h), if—

(1) a guaranty is made under this title for a loan made with respect to an individual,

(2) at the time the guaranty is entered into, the provisions of subsection (h) had been complied with,

(3) amounts are paid under the loan subject to such guaranty, and

(4) there is a subsequent determination that, because of an unsatisfactory immigration status, the individual is not eligible for the loan, the official of the institution making the determination shall notify and instruct the entity making the loan to cease further payments under the loan, but such guaranty shall not be voided or otherwise nullified with respect to such payments made before the date the entity receives the notice.

(j) ASSISTANCE UNDER SUBPARTS 1, 3, AND 6, AND CHAPTER 1 OF SUBPART 2, OF PART A, AND PART C.—Notwithstanding any other provision of law, a student shall be eligible, if otherwise qualified, for assistance under subparts 1, 3, and 6, and chapter 1 of subpart 2, of part A, and part C, of this title, if the student is otherwise qualified and—

(1) is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, and attends an institution of higher education in a State or a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau; or

(2) meets the requirements of subsection (a)(5) and attends a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.

C. EMERGENCY IMMIGRANT EDUCATION PROGRAM

(Originally enacted as title VI of the Education Amendments of 1984, Public Law 98–511, October 19, 1984, and rewritten and enacted as part C of title VII of the Elementary and Secondary Education Act of 1965 by §101 of the Improving America's Schools Act of 1994, Pub. Law 103–382, October 20, 1994.)

PART C—EMERGENCY IMMIGRANT EDUCATION PROGRAM

SEC. 7301. [20 U.S.C. 7541] FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the education of our Nation's children and youth is one of the most sacred government responsibilities;

(2) local educational agencies have struggled to fund adequately education services;

(3) in the case of *Plyler v. Doe*, the Supreme Court held that States have a responsibility under the Equal Protection Clause of the Constitution to educate all children, regardless of immigration status; and

(4) immigration policy is solely a responsibility of the Federal Government.

(b) PURPOSE.—The purpose of this part is to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration to—

(1) provide high-quality instruction to immigrant children and youth; and

(2) help such children and youth—
 (A) with their transition into American society; and
 (B) meet the same challenging State performance standards expected of all children and youth.

SEC. 7302. [20 U.S.C. 7542] STATE ADMINISTRATIVE COSTS.

For any fiscal year, a State educational agency may reserve not more than 1.5 percent of the amount allocated to such agency under section 7304 to pay the costs of performing such agency's administrative functions under this part.

SEC. 7303. [20 U.S.C. 7543] WITHHOLDING.

Whenever the Secretary, after providing reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirement of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

SEC. 7304. [20 U.S.C. 7544] STATE ALLOCATIONS.

(a) **PAYMENTS.**—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1995 through 1999 for the purpose set forth in section 7301(b).

(b) **ALLOCATIONS.**—

(1) **IN GENERAL.**—Except as provided in subsections (c) and (d), of the amount appropriated for each fiscal year for this part, each State participating in the program assisted under this part shall receive an allocation equal to the proportion of such State's number of immigrant children and youth who are enrolled in public elementary or secondary schools under the jurisdiction of each local educational agency described in paragraph (2) within such State, and in nonpublic elementary or secondary schools within the district served by each such local educational agency, relative to the total number of immigrant children and youth so enrolled in all the States participating in the program assisted under this part.

(2) **ELIGIBLE LOCAL EDUCATIONAL AGENCIES.**—The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children and youth who are enrolled in public elementary or secondary schools under the jurisdiction of such agencies, and in nonpublic elementary or secondary schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this part, is equal to—

(A) at least 500; or

(B) at least 3 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year, whichever number is less.

(c) **DETERMINATIONS OF NUMBER OF CHILDREN AND YOUTH.**—

(1) **IN GENERAL.**—Determinations by the Secretary under this section for any period with respect to the number of immigrant children and youth shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

(2) **SPECIAL RULE.**—No such determination with respect to the number of immigrant children and youth shall operate because of an underestimate or overestimate to deprive any State educational agency of the allocation under this section that such State would otherwise have received had such determination been made on the basis of accurate data.

(d) **REALLOCATION.**—Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from any appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

(e) **RESERVATION OF FUNDS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of this part, if the amount appropriated to carry out this part exceeds \$50,000,000 for a fiscal year, a State educational agency may reserve not more than 20 percent of such agency's payment under this part for such year to award grants, on a competitive basis, to local educational agencies within the State as follows:

(A) At least one-half of such grants shall be made available to eligible local educational agencies (as described in subsection (b)(2)) within the State with the highest numbers and percentages of immigrant children and youth.

(B) Funds reserved under this paragraph and not made available under subparagraph (A) may be distributed to local educational agencies within the State experiencing a sudden influx of immigrant children and youth which are otherwise not eligible for assistance under this part.

(2) **USE OF GRANT FUNDS.**—Each local educational agency receiving a grant under paragraph (1) shall use such grant funds to carry out the activities described in section 7307.

(3) **INFORMATION.**—Local educational agencies with the highest number of immigrant children and youth receiving funds under paragraph (1) may make information available on serving immigrant children and youth to local educational agencies in the State with sparse numbers of such children.

SEC. 7305. [20 U.S.C. 7545] STATE APPLICATIONS.

(a) **SUBMISSION.**—No State educational agency shall receive any payment under this part for any fiscal year unless such agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

(2) provide assurances that payments under this part will be used for purposes set forth in sections 7301 and 7307, including a description of how local educational agencies receiving funds under this part will use such funds to meet such purposes and will coordinate with other programs assisted under this Act, the Goals 2000: Educate America Act, and other Acts as appropriate;

(3) provide an assurance that local educational agencies receiving funds under this part will coordinate the use of such funds with programs assisted under part A or title I;

(4) provide assurances that such payments, with the exception of payments reserved under section 7304(e), will be distributed among local educational agencies within that State on the basis of the number of immigrant children and youth counted with respect to each such local educational agency under section 7304(b)(1);

(5) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(6) provide for making such reports as the Secretary may reasonably require to perform the Secretary's functions under this part;

(7) provide assurances—

(A) that to the extent consistent with the number of immigrant children and youth enrolled in the nonpublic elementary or secondary schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of such children and youth secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children and youth;

(B) that the control of funds provided under this part to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property; and

(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such nonpublic elementary or secondary school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds;

(8) provide that funds reserved under subsection (e) of section 7304 be awarded on a competitive basis based on merit and need in accordance with such subsection; and

(9) provide an assurance that State and local educational agencies receiving funds under this part will comply with the requirements of section 1120(b).

(b) **APPLICATION REVIEW.**—

(1) **IN GENERAL.**—The Secretary shall review all applications submitted pursuant to this section by State educational agencies.

(2) **APPROVAL.**—The Secretary shall approve any application submitted by a State educational agency that meets the requirements of this section.

(3) **DISAPPROVAL.**—The Secretary shall disapprove any application submitted by a State educational agency which does not meet the requirements of this section, but shall not finally disapprove an application except after providing reasonable notice, technical assistance, and an opportunity for a hearing to the State.

SEC. 7306. [20 U.S.C. 7546] ADMINISTRATIVE PROVISIONS.

(a) **NOTIFICATION OF AMOUNT.**—The Secretary, not later than June 1 of each year, shall notify each State educational agency that has an application approved under section 7305 of the amount of such agency's allocation under section 7304 for the succeeding year.

(b) **SERVICES TO CHILDREN ENROLLED IN NONPUBLIC SCHOOLS.**—If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 7305(a)(7), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services, subject to the requirements of this part, to such children. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of title I.

SEC. 7307. [20 U.S.C. 7547] USES OF FUNDS.

(a) **USE OF FUNDS.**—Funds awarded under this part shall be used to pay for enhanced instructional opportunities for immigrant children and youth, which may include—

(1) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

(2) salaries of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

(3) tutorials, mentoring, and academic or career counseling for immigrant children and youth;

(4) identification and acquisition of curricular materials, educational software, and technologies to be used in the program;

(5) basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

(6) such other activities, related to the purposes of this part, as the Secretary may authorize.

(b) **CONSORTIA.**—A local educational agency that receives a grant under this part may collaborate or form a consortium with one or more local educational agencies, institutions of higher education, and nonprofit organizations to carry out the program described in an application approved under this part.

(c) **SUBGRANTS.**—A local educational agency that receives a grant under this part may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out a program described in an application approved under this part, including a program to serve out-of-school youth.

(d) **CONSTRUCTION.**—Nothing in this part shall be construed to prohibit a local educational agency from serving immigrant children simultaneously with students with similar educational needs, in the same educational settings where appropriate.

SEC. 7308. [20 U.S.C. 7548] REPORTS.

(a) **BIENNIAL REPORT.**—Each State educational agency receiving funds under this part shall submit, once every two years, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency receiving funds under this part shall submit to the State educational agency such information as may be necessary for such report.

(b) **REPORT TO CONGRESS.**—The Secretary shall submit, once every two years, a report to the appropriate committees of the Congress concerning programs assisted under this part in accordance with section 14701.

SEC. 7309. [20 U.S.C. 7549] AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this part, there are authorized to be appropriated \$100,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

D. AMERASIAN IMMIGRATION

(§ 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as contained in § 101(e) of Public Law 100-202, 101 Stat. 1329-183, December 22, 1987, 8 U.S.C. 1101 note, and as amended by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, Pub. L. 101-167, the Immigration Act of 1990, Pub. L. 101-649, and the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, Pub. L. 101-513, and the Miscellaneous Technical Immigration and Naturalization Amendments of 1991, Pub. L. 102-232)

SEC. 584. [8 U.S.C. 1101 note] AMERASIAN IMMIGRATION.

(a)(1) Notwithstanding any numerical limitations specified in the Immigration and Nationality Act, the Attorney General may admit aliens described in subsection (b) to the United States as immigrants if—

(A) they are admissible (except as otherwise provided in paragraph (2)) as immigrants, and

(B) they are issued an immigrant visa and depart from Vietnam on or after March 22, 1988.¹

(2) The provisions of paragraphs (4), (5), and (7)(A)² of section 212(a) of the Immigration and Nationality Act shall not be applicable to any alien seeking admission to the United States under this section, and the Attorney General on the recommendation of a consular officer may waive any other provision of such section (other than paragraph (2)(C) or subparagraph (A), (B), (C), or (E) of paragraph (3))² with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following an investigation by a consular officer.

(3) Notwithstanding section 221(c) of the Immigration and Nationality Act, immigrant visas issued to aliens under this section shall be valid for a period of one year.³

(b)(1) An alien described in this section is an alien who, as of the date of the enactment of this Act, is residing in Vietnam and who establishes to the satisfaction of a consular officer or an officer of the Immigration and Naturalization Service after a face-to-face interview, that the alien—

(A)(i) was born in Vietnam after January 1, 1962, and before January 1, 1976, and (ii) was fathered by a citizen of the United States (such an alien in this section referred to as a “principal alien”);

(B) is the spouse or child of a principal alien and is accompanying, or following to join, the principal alien; or

(C) subject to paragraph (2), either (i) is the principal alien’s natural mother (or is the spouse or child of such mother), or (ii) has acted in effect as the

¹ § 584(a)(1)(B) was amended by the 10th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (P.L. 101-167, 103 Stat. 1211, Nov. 21, 1989), to extend the period from March 21, 1990, to September 30, 1990, and was further amended by the 9th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, Pub. L. 101-513, Nov. 5, 1990, 104 Stat. 1996) to extend the period indefinitely.

² § 603(a)(20) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5084) substituted a reference to paragraphs “(4), (5), and (7)(A)” for a reference to paragraphs “(14), (15), (20), (21), (25), and (32)” and struck “(other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics)” and inserted “(other than paragraph (2)(C) or subparagraph (A), (B), (C), or (D) of paragraph (3))”. This was further amended by § 307(l)(8) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1757) by substituting “(E)” for “(D)”.

³ § 584(a)(3) was amended by the 6th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (P.L. 101-167, 103 Stat. 1211, Nov. 21, 1989), to extend the period of validity of visas from 8 months to 1 year.

principal alien's mother, father, or next-of-kin (or is the spouse or child of such an alien), and is accompanying, or following to join, the principal alien.

(2) An immigrant visa may not be issued to an alien under paragraph (1)(C) unless^{3a} the officer referred to in paragraph (1) has determined, in the officer's discretion, that (A) such an alien has a bona fide relationship with the principal alien similar to that which exists between close family members, and (B) the admission of such an alien is necessary for humanitarian purposes or to assure family unity. If an alien described in paragraph (1)(C)(ii) is admitted to the United States, the natural mother of the principal alien involved shall not, thereafter, be accorded any right, privilege, or status under the Immigration and Nationality Act by virtue of such parentage.

(3) For purposes of this section, the term "child" has the meaning given such term in section 101(b)(1)(A), (B), (C), (D), and (E) of the Immigration and Nationality Act.

(c)⁴ Any alien admitted (or awaiting admission) to the United States under this section shall be eligible for benefits under chapter 2 of title IV of the Immigration and Nationality Act to the same extent as individuals admitted (or awaiting admission) to the United States under section 207 of such Act are eligible for benefits under such chapter.

(d) The Attorney General, in cooperation with the Secretary of State, shall report to Congress 1 year, 2 years, and 3 years, after the date of the enactment of this Act on the implementation of this section. Each such report shall include the number of aliens who are issued immigrant visas and who are admitted to the United States under this section and number of waivers granted under subsection (a)(2) and the reasons for granting such waivers.

(e) Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section and nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

^{3a}The 11th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (P.L. 101-513, Nov. 5, 1990, 104 Stat. 1996), struck "the principal alien involved is unmarried and", which appeared after "unless", effective as of December 22, 1987.

⁴The 9th proviso under Migration and Refugee Assistance, Department of State, in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Pub. L. 100-461, Oct. 1, 1988, 102 Stat. 2268-15) provides that "the provisions of subsection (c) of section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as contained in section 101(e) of Public Law 100-202, shall apply to an individual who (1) departs from Vietnam after the date of the enactment of this Act [viz., October 1, 1988], and (2) is described in subsection (b) of such section, but who is issued an immigrant visa under section 201(b) or 203(a) of the Immigration and Nationality Act (rather than under subsection (a) of such section), or would be described in subsection (b) of such section if such section also applied to principal aliens who were citizens of the United States (rather than merely to aliens)". The 11th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (P.L. 101-167, 103 Stat. 1211, Nov. 21, 1989), as amended by chapter III of the Dire Emergency Supplemental Appropriations for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending Act of 1991 (Pub. L. 101-302, May 25, 1990, 104 Stat. 228) struck "2-year period" [sic] and inserted "period" and the 9th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, Pub. L. 101-513, Nov. 5, 1990, 104 Stat. 1996) struck out any limitation on the period of departure from Vietnam.

**E. TITLE IX OF THE FOREIGN RELATIONS AUTHORIZATION ACT,
FISCAL YEARS 1988 AND 1989**

(Public Law 100-204, 101 Stat. 1399, December 22, 1987; as amended by §555 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Pub. L. 100-461, Oct. 1, 1988, 102 Stat. 2268-36)

TITLE IX—IMMIGRATION AND REFUGEE PROVISIONS

[SEC. 901. PROHIBITION ON EXCLUSION OR DEPORTATION OF ALIENS ON CERTAIN GROUNDS.¹

[(a)² GENERAL.—Notwithstanding any other provision of law, no alien may be denied a visa or excluded from admission into the United States, subject to restrictions or conditions on entry into the United States, or subject to deportation because of any past, current or expected beliefs, statements, or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States.

[(b) CONSTRUCTION REGARDING EXCLUDABLE ALIENS.—Nothing in this section shall be construed as affecting the existing authority of the executive branch to deport, to deny issuance of a visa to, to deny adjustment of status of,³ or to deny admission to the United States of, any alien—

[(1) for reasons of foreign policy or national security, except that such deportation or denial may not be based on past, current, or expected beliefs, statements, or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States, unless⁴ such alien is seeking issuance of a visa, adjustment of status, or admission to the United States as an immigrant. [sic];

[(2) who a consular official or the Attorney General knows or has reasonable ground to believe has engaged, in an individual capacity or as a member of an organization, in a terrorist activity or is likely to engage after entry in a terrorist activity; or

[(3) who seeks to enter in an official capacity as a representative of a purported labor organization in a country where such organizations are in fact instruments of a totalitarian state.

In addition, nothing in subsection (a) shall be construed as applying to an alien who is described in section 212(a)(33) of the Immigration and Nationality Act (relating to those who assisted in the Nazi persecutions), to an alien described in the last sentence of section 101(a)(42) of such Act (relating to those assisting in other persecutions) who is seeking the benefits of section 207, 208, 243(h)(1), or 245A of such Act (relating to admission as a refugee, asylum, withholding of deportation, and legalization), or to an alien who is described in section 21(c) of the State Department Basic Authorities Act of 1956. In paragraph (2), the term "terrorist activity" means

¹ Section repealed by § 603(a)(21) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5084).

² Previous to the enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, subsection (a) read as follows:

(a) IN GENERAL.—Notwithstanding any other provision of law, no alien may be denied a visa or excluded from admission into the United States, subject to restrictions or conditions on entry into the United States, or subject to deportation because of any past, current, or expected beliefs, statements, or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States.

In the amendments made by Public Law 100-461, there were several corrections made in the enrollment that were footnoted in the law as passed; these corrections are incorporated and shown in the text. In addition, the IN is missing before GENERAL in subsection (a). Also, §128(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (P.L. 101-246, Feb. 16, 1990, 104 Stat. 30) inserted the phrase "subject to restrictions or conditions on entry into the United States," after "United States."

³ The phrase "to deny adjustment of status of" was inserted by the 8th proviso of §555 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Pub. L. 100-461, Oct. 1, 1988).

⁴ The language from "unless" through the period was inserted by the 8th proviso of §555 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Pub. L. 100-461, Oct. 1, 1988).

the organizing, abetting, or participating in a wanton or indiscriminate act of violence with extreme indifference to the risk of causing death or serious bodily harm to individuals not taking part in armed hostilities.

[(c) CONSTRUCTION REGARDING STANDING TO SUE.—Nothing in this section shall be construed as affecting standing in any Federal court or in any administrative proceeding.]

[(d)⁵ Repealed by §128(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Pub. L. 101-246, Feb. 16, 1990, 104 Stat. 30).]

SEC. 902. ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN NATIONALS OF COUNTRIES FOR WHICH EXTENDED VOLUNTARY DEPARTURE HAS BEEN MADE AVAILABLE.⁶

(a) ADJUSTMENT OF STATUS.—The status of any alien who is a national of a foreign country the nationals of which were provided (or allowed to continue in) “extended voluntary departure” by the Attorney General on the basis of a nationality group determination at any time during the 5-year period ending on November 1, 1987, shall be adjusted by the Attorney General to that of an alien lawfully admitted for temporary residence if the alien—

(1) applies for such adjustment within two years after the date of the enactment of this Act;

(2) establishes that (A) the alien entered the United States before July 21, 1984, and (B) has resided continuously in the United States since such date and through the date of the enactment of this Act;

(3) establishes continuous physical presence in the United States (other than brief, casual, and innocent absences) since the date of the enactment of this Act;

(4) in the case of an alien who entered the United States as a non-immigrant before July 21, 1984, establishes that (A) the alien’s period of authorized stay as a nonimmigrant expired not later than six months after such date through the passage of time or (B) the alien applied for asylum before July 21, 1984; and

(5) meets the requirements of section 245A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(a)(4)).

The Attorney General shall provide for the acceptance and processing of applications under this subsection by not later than 90 days after the date of the enactment of this Act.

(b) STATUS AND ADJUSTMENT OF STATUS.—The provisions of subsections (b), (c)(6), (d), (f), (g), (h), and (i) of section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) shall apply to aliens provided temporary residence under subsection (a) in the same manner as they apply to aliens provided lawful temporary residence status under section 245A(a) of such Act.

⁵ Previous to the enactment of section 128 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Pub. L. 101-246, Feb. 16, 1990, 104 Stat. 30), subsection (d) read as follows:

(d) EFFECTIVE PERIOD.—Subsection (a) shall only apply to—

(1) applications for nonimmigrant visas submitted before January 1, 1991;

(2) admissions sought before March 1, 1991;

(3) deportations based on activities occurring before January 1, 1991, or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time between December 31, 1987 and January 1, 1991.

In addition, previous to the enactment of the 9th proviso of §555 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Pub. L. 100-461, Oct. 1, 1988), subsection (d) read as follows:

(d) EFFECTIVE PERIOD.—Subsection (a) shall only apply to—

(1) applications for visas submitted during 1988;

(2) admissions sought after December 31, 1987, and before March 1, 1989; and

(3) deportations based on activities occurring during 1988 or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time during 1988.

Also, the 10th proviso of §555 of such Act provides as follows: “That the amendment made in the preceding sentence shall not require the deportation of aliens admitted for permanent resident status under section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, as in effect before the date of the enactment of this Act [viz., October 1, 1988].”

⁶ For identical, and duplicative, provision, see §902 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988, as contained in §101(a) of Pub. L. 100-202, shown in Appendix IV. F.

SEC. 903. PROCESSING OF CUBAN NATIONALS FOR ADMISSION TO THE UNITED STATES.⁷

(a) **PROCESSING OF CERTAIN CUBAN POLITICAL PRISONERS AS REFUGEES.**—In light of the announcement of the Government of Cuba on November 20, 1987, that it would reimplement immediately the agreement of December 14, 1984, establishing normal migration procedures between the United States and Cuba, on and after the date of the enactment of this Act, consular officers of the Department of State and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to reassure the orderly process of available applicants.

(b) **PROCESSING OF IMMIGRANT VISA APPLICATIONS OF CUBAN NATIONALS IN THIRD COUNTRIES.**—Notwithstanding section 212(f) and section 243(g) of the Immigration and Nationality Act, on and after the date of the enactment of this Act, consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) **DEFINITIONS.**—For purposes of this section:

(1) The term “process” means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term “refugee” has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

SEC. 904. INDOCHINESE REFUGEE RESETTLEMENT.

[Omitted.]

SEC. 905. AMERASIAN CHILDREN IN VIETNAM.

[Omitted.]

SEC. 906. REFUGEES FROM SOUTHEAST ASIA.

[Omitted.]

SEC. 907. RELEASE OF YANG WEL

[Omitted.]

F. IMMIGRATION AMENDMENTS OF 1988

(PUBLIC LAW 100-658, NOVEMBER 5, 1988)

SECTION 1. SHORT TITLE.

This Act may be cited as the “Immigration Amendments of 1988”.

SEC. 2. 2-YEAR EXTENSION OF SECTION 314 OF THE IMMIGRATION REFORM AND CONTROL ACT OF 1986.

(a) **IN GENERAL.**—Section 314(a) of the Immigration Reform and Control Act of 1986 is amended by inserting “and 15,000 visa numbers in each of fiscal years 1989 and 1990” after “5,000 visa numbers in each of fiscal years 1987 and 1988”.

(b) **ADMINISTRATION.**—In carrying out the amendment made by subsection (a), the Secretary of State shall continue to use the list of qualified immigrants established under section 314 of the Immigration Reform and Control Act of 1986 before the date of the enactment of this Act, and may continue to carry out such section under the regulations in effect (as of the date of July 1, 1988) under part 43 of title 22 of the Code of Federal Regulations.

SEC. 3. MAKING VISAS AVAILABLE TO IMMIGRANTS FROM UNDERREPRESENTED COUNTRIES TO ENHANCE DIVERSITY IN IMMIGRATION.

(a) **AUTHORIZATION OF ADDITIONAL VISAS.**—Notwithstanding the numerical limitations in section 201(a) of the Immigration and Nationality Act (relating to worldwide level of immigration), but subject to the numerical limitations in section 202 of such Act (relating to per country numerical limitations), there shall be made

⁷ This section is virtually identical to, and duplicative of, § 702 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988, as contained in § 101(a) of Pub. L. 100-202, 101 Stat. 1329-40, shown in Appendix III. G.

available to qualified immigrants who are natives of underrepresented countries 10,000 visa numbers in each of fiscal years 1990 and 1991.

(b) **DISTRIBUTION OF VISA NUMBERS.**—The Secretary of State shall provide for making visa numbers provided under subsection (a) available in the same manner as visa numbers were made available to qualified immigrants under section 203(a)(7) of the Immigration and Nationality Act, except that such visas shall be made available strictly in a random order among those who qualify during an application period established by the Secretary of State and except that if more than one petition is submitted with respect to any alien all such petitions submitted with respect to the alien shall be voided.

(c) **WAIVER OF LABOR CERTIFICATION.**—Section 212(a)(14) of the Immigration and Nationality Act shall not apply in the determination of an immigrant's eligibility to receive any visa made available under this section or in the admission of such an immigrant issued a visa under this section.

(d) **APPLICATION OF DEFINITIONS OF IMMIGRATION AND NATIONALITY ACT.**—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing in this section shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization.

(e)* **UNDERREPRESENTED COUNTRY DEFINED.**—In this section, the term "underrepresented country" means a foreign state natives of which used, during fiscal year 1988, less than 25 percent of the maximum number of immigrant visa numbers otherwise available to it in that fiscal year under section 202(a) of the Immigration and Nationality Act. In applying the previous sentence, there shall not be taken into account visa numbers issued under section 314 of the Immigration Reform and Control Act of 1986.

SEC. 4. EXTENSION OF H-1 STATUS FOR CERTAIN REGISTERED NURSES THROUGH DECEMBER 31, 1989.

The Attorney General shall provide for the extension through December 31, 1989, of nonimmigrant status under section 101(a)(15)(H)(i) of the Immigration and Nationality Act for an alien to perform temporarily services as a registered nurse in the case of an alien who has had such status for a period of at least 5 years if—

(1) such status has not expired as of the date of the enactment of this Act but would otherwise expire during 1988 or 1989, due only to the time limitation with respect to such status; or

(2)(A) the alien's status as such a nonimmigrant expired during the period beginning on January 1, 1987, and ending on the date of the enactment of this Act, due only to the time limitation with respect to such status,

(B) the alien is present in the United States as of the date of the enactment of this Act,

(C) the alien has been employed as a registered nurse in the United States since the date of expiration of such status, and

(D) in the case of an alien whose status expired during 1987, the alien's employer has filed with the Immigration and Naturalization Service, before the date of the enactment of this Act, an appeal of a petition filed in connection with the alien's application for extension of such status.

G. ANTI-DRUG ABUSE ACT OF 1988

(PUBLIC LAW 100-690, NOVEMBER 8, 1988, as amended by P.L. 102-583)

* * * * *

* All foreign states listed in Appendix VII.B.3. *except* the following meet this definition of "underrepresented": China-mainland born and Taiwan born, Colombia, Dominican Republic, El Salvador, Great Britain and Northern Ireland, Guyana, Haiti, India, Jamaica, Korea, Mexico and Philippines.

[§ 4604, relating to machine-readable document border security program, was repealed by § 6(e)(1) of the International Narcotics Control Act of 1992 (P.L. 102-583, 106 Stat. 4933, Nov. 2, 1992).]

* * * * *

Subtitle D—Authorizations of Appropriations for the Department of Justice, Prisons, and Related Law Enforcement Purposes

SEC. 6151. IMMIGRATION AND NATURALIZATION SERVICE PERSONNEL ENHANCEMENT.

(a) **SALARIES AND EXPENSES.**—There is authorized to be appropriated for salaries and expenses for the Immigration and Naturalization Service for fiscal year 1989, \$12,300,000: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That of such additional appropriations authorized in this section, \$4,100,000 shall be used to increase the number of inspectors of the Immigration and Naturalization Service by no fewer than 70 over such personnel levels on board at the Service as of September 30, 1988, and for related equipment.

(b) **ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE PILOT PROJECT AND REPORT.**—(1) That of such additional appropriation authorized in this section, \$8,200,000 shall be used to increase the commitment of Immigration and Naturalization Service personnel to the Organized Crime Drug Enforcement Task Forces (OCDETF) for additional special agent and support positions; and for associated training and equipment; and for costs incurred during INS agent participation in OCDETF operations with other Federal, State, and local law enforcement agencies.

(2) The positions described in paragraph (1) shall, under the supervision of a director for the pilot project, be used exclusively to assist Federal and local law enforcement agencies in combating illegal alien involvement in drug trafficking and crimes of violence.

(3) The Director of the pilot project shall report to the Assistant Commissioner—Investigations and will have the authority to—

(A) hire a limited number of non-Federal law enforcement officers with substantive experience in narcotics investigations should insufficient senior Federal agents be available. Non-Federal law enforcement officers hired under this provision may be over the age of 35, but in that event would only be eligible for nonlaw enforcement retirement benefits; and

(B) grant extensions of stay and other discretionary immigration benefits and waivers to witnesses, informants, and others whose presence in the United States is essential to the investigation and prosecution of criminal aliens involved in drug trafficking and crimes of violence.

(4) After the first year of the establishment of this pilot project the Attorney General will provide for an evaluation of its effectiveness, including an assessment by Federal, State, and local prosecutors and enforcement agencies.

(c) **LOCAL OFFICE CAPABILITIES IMPROVEMENT PILOT PROJECT.**—From the sums appropriated to carry out this section, the Attorney General, through the Investigative Division of the Immigration and Naturalization Service, shall provide a pilot program in 4 cities to establish or improve the capabilities of the local offices of the Service and of local law enforcement agencies to respond to inquiries concerning aliens who have been arrested or convicted for, or are the subject criminal investigation relating to, a violation of any law relating to controlled substances. The Attorney General shall select cities in a manner that provides special consideration for cities located near the land borders of the United States and for large cities which have major concentrations of aliens. Some of the sums made available under the pilot program shall be used to increase the personnel level of the Investigative Division.

* * * * *

SEC. 6161. BORDER PATROL DRUG INTERDICTION ASSET ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Border Patrol within the Department of Justice for fiscal year 1989, \$16,400,000: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used only for the procurement of drug interdiction-related equipment for Border Patrol drug enforcement personnel, including spare parts for helicopters; 4-wheel drive law enforcement vehicles; and initial procurement of mobile sensor response system and electronic intrusion detection, and for related operation and maintenance expenses.

SEC. 6162. IMMIGRATION AND NATURALIZATION SERVICE/BORDER PATROL DRUG INTERDICTION PERSONNEL ENHANCEMENT.

(a) **SALARIES AND EXPENSES.**—There is authorized to be appropriated for salaries and expenses of the Border Patrol within the Department of Justice for fiscal year 1989, \$16,400,000: *Provided*, That such appropriation shall be in addition to any appropriations appropriated in any regular appropriations Acts or continuing resolutions for the fiscal year ending on September 30, 1989: *Provided further*, That such additional appropriation shall be used to increase officers of the Border Patrol by no fewer than 435 full-time equivalent positions over the level of such personnel onboard at the Border Patrol as of September 30, 1988, and for related equipment.

(b) **SAN CLEMENTE BORDER PATROL STATION.**—There is authorized to be appropriated, out of any funds made available by section 6161, for the fiscal year ending September 30, 1989, \$2,706,000 for the design of improvements for the Immigration and Naturalization Service border patrol station at San Clemente, California.

(c) **DRUG EDUCATION OFFICERS PROGRAM.**—There is authorized to be appropriated, out of any funds made available by this Act, for the fiscal year ending September 30, 1989, such sums as may be necessary to establish and maintain an Immigration and Naturalization Service Drug Education Officers program, featuring the demonstration of drug detection canine unit capabilities along the southwest border region of the United States.

(d) **SALARIES AND EXPENSES.**—There is authorized to be appropriated for salaries and expenses of the Border Patrol for fiscal year 1989, \$16,400,000. Any amounts appropriated pursuant to this subsection shall be in addition to any amounts appropriated in regular appropriations Acts for such fiscal year. Such additional appropriations shall be used to increase the number of officers of the Border Patrol by not fewer than 435 full-time equivalent officer positions beyond the number of such positions at the Border Patrol on September 30, 1988.

* * * * *

SEC. 6165. FEDERAL LAW ENFORCEMENT LANGUAGE TRAINING IMPROVEMENT.

(a) **DEPARTMENT OF DEFENSE.**—The Department of Defense is authorized to provide, on a cost reimbursable basis, foreign language training at the Defense Language Institute to special agents of Federal civilian agencies involved in drug law enforcement.

(b) **DEPARTMENT OF STATE.**—The Department of State is authorized to provide, on a cost reimbursable basis, foreign language training at the Foreign Service Institute to special agents of Federal civilian agencies involved in drug law enforcement.

* * * * *

(e) **INS.**—The Immigration and Naturalization Service is authorized to—

(1) detail investigative personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—The following amounts are authorized to be appropriated to implement the provisions of this section:

(1) to the Commissioner of Customs, only for obligation for special agent foreign language training, \$273,000;

(2) to the Administrator of the Drug Enforcement Administration, only for obligation for special agent foreign language training, \$273,000; and

(3) to the Commissioner of the Immigration and Naturalization Service, only for obligation for special agent foreign language training, \$273,000.

(g) **RULES APPLICABLE TO APPROPRIATIONS.**—Moneys appropriated pursuant to this section shall—

(1) remain available until expended; and

(2) shall be made available by the United States Customs Service, the Immigration and Naturalization Service, and the Drug Enforcement Administration out of the total amount of additional funds authorized to be appropriated in this Act.

* * * * *

Subtitle J—Provisions Relating to the Deportation of Aliens Who Commit Aggravated Felonies

SEC. 7341. AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.

Except as otherwise specifically provided in this subtitle, whenever in this subtitle an amendment or repeal is expressed as an amendment to, or repeal of, a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

SEC. 7342. DEFINITION.

[Omitted; added paragraph (43), defining term “aggravated felony”, to §101(a) of the INA.]

SEC. 7343. DEPORTATION OF ALIENS COMMITTING AGGRAVATED FELONIES.

(a) **RETENTION IN CUSTODY BY THE ATTORNEY GENERAL.**—Section 242(a) (8 U.S.C. 1252(a)) is amended—

(1) in the second sentence, by striking out “Any” and inserting in lieu thereof “Except as provided in paragraph (2), any”;

(2) by redesignating clauses (1), (2), and (3) as clauses (A), (B), and (C), respectively;

(3) by inserting “(1)” immediately after “(a)”;

(4) by adding at the end thereof the following new paragraphs:

[Omitted; added paragraphs (2) and (3).]

(b) **INAPPLICABILITY OF VOLUNTARY DEPARTURE.**—Section 244(e) (8 U.S.C. 1254(e)) is amended—

(1) by striking out “(e) The” and inserting in lieu thereof “(e)(1) Except as provided in paragraph (2), the”;

(2) by adding at the end thereof the following new paragraph:

[Omitted; added paragraph (2).]

(c) **APPLICABILITY.**—The amendments made by subsections (a) and (b) shall apply to any alien who has been convicted, on or after the date of the enactment of this Act, of an aggravated felony.

SEC. 7344. GROUNDS OF DEPORTATION.

(a) **IN GENERAL.**—Section 241(a)(4) (8 U.S.C. 1251((a)(4)) is amended—

(1) by inserting “(A)” before “crime”;

(2) by inserting after the semicolon the following: “or (B) is convicted of an aggravated felony at any time after entry”;

(b) **APPLICABILITY.**—The amendments made by subsection (a) shall apply to any alien who has been convicted, on or after the date of the enactment of this Act, of an aggravated felony.

SEC. 7345. CRIMINAL PENALTIES FOR REENTRY OF CERTAIN DEPORTED ALIENS.

(a) **IN GENERAL.**—Section 276 (8 U.S.C. 1326) is amended—

(1) by striking out “Any alien” and inserting in lieu thereof “(a) Subject to subsection (b), any alien”;

(2) by adding at the end thereof the following new subsection:

[Omitted; added subsection (b).]

(b) **APPLICABILITY.**—The amendments made by subsection (a) shall apply to any alien who enters, attempts to enter, or is found in, the United States on or after the date of the enactment of this Act.

SEC. 7346. CRIMINAL PENALTIES FOR AIDING OR ASSISTING CERTAIN ALIENS TO ENTER THE UNITED STATES.

(a) **IN GENERAL.**—Section 277 (8 U.S.C. 1327) is amended by inserting “(9), (10), (23) (insofar as an alien excludable under any such paragraph has in addition been convicted of an aggravated felony),” immediately after “212(a)”.

(b) **APPLICABILITY.**—The amendment made by subsection (a) shall apply to any aid or assistance which occurs on or after the date of the enactment of this Act.

(c) CONFORMING AMENDMENTS.—[Omitted; conforming amendments to section heading and table of contents omitted.]

SEC. 7347. EXPEDITED DEPORTATION PROCEEDINGS FOR ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) EXPEDITED PROCEEDINGS.—[Omitted; inserted section 242A to the INA.]

(b) APPEALS.—Paragraph (1) of section 106(a) (8 U.S.C. 1105a(a)(1)) is amended to read as follows:

“(1) a petition for review may be filed not later than 6 months after the date of the issuance of the final deportation order, or, in the case of an alien convicted of an aggravated felony, not later than 60 days after the issuance of such order;”.

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) shall apply in the case of any alien convicted of an aggravated felony on or after the date of the enactment of this Act.

(d) TABLE OF CONTENTS.—[Omitted; conforming amendment to table of contents.]

SEC. 7348. DEPORTATION FOR WEAPONS VIOLATION.

(a) IN GENERAL.—Section 241(a)(14) (8 U.S.C. 1251(a)(14)) is amended by inserting after “law” the following: “any firearm or destructive device (as defined in paragraphs (3) and (4)), respectively, of section 921(a) of title 18, United States Code, or any revolver or”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to any alien convicted, on or after the date of the enactment of this Act, of possessing any firearm or destructive device referred to in such subsection.

SEC. 7349. BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) IN GENERAL.—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended by inserting “(or within ten years in the case of an alien convicted of an aggravated felony)” after “within five years”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to any alien convicted of an aggravated felony who seeks admission to the United States on or after the date of the enactment of this Act.

SEC. 7350. IMMIGRATION AND NATURALIZATION SERVICE PERSONNEL ENHANCEMENT.

(a) PILOT PROGRAM REGARDING THE IDENTIFICATION OF CERTAIN ALIENS.—

(1) Within 6 months after the effective date of this subtitle, the Attorney General shall establish, out of funds appropriated pursuant to subsection (c)(2), a pilot program in 4 cities to improve the capabilities of the Immigration and Naturalization Service (hereinafter in this section referred to as the “Service”) to respond to inquiries from Federal, State, and local law enforcement authorities concerning aliens who have been arrested for or convicted of, or who are the subject of any criminal investigation relating to, a violation of any law relating to controlled substances (other than an aggravated felony as defined in section 101(a)(43) of the Immigration and Nationality Act, as added by section 7342 of this subtitle).

(2) At the end of the 12-month period after the establishment of such pilot program, the Attorney General shall provide for an evaluation of its effectiveness, including an assessment by Federal, State, and local prosecutors and law enforcement agencies. The Attorney General shall submit a report containing the conclusions of such evaluation to the Committees on the Judiciary of the House of Representatives and of the Senate within 60 days after the completion of such evaluation.

(b) HIRING OF INVESTIGATIVE AGENTS.—

(1) Any investigative agent hired by the Attorney General for purposes of this section shall be employed exclusively to assist Federal, State, and local law enforcement agencies in combating drug trafficking and crimes of violence by aliens.

(2) Any investigative agent hired under this section who is older than 35 years of age shall not be eligible for Federal retirement benefits made available to individuals who perform hazardous law enforcement activities.

**H. FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED
PROGRAMS APPROPRIATIONS ACT, 1990**

(Public Law 101-167, November 21, 1989; as amended by section 598 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, Public Law 101-513, Nov. 5, 1990, the Miscellaneous Technical Immigration and Naturalization Amendments of 1991, Pub. L. 102-232, Dec. 12, 1991, section 582 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Pub. L. 102-391, October 6, 1992), section 905 of the FREEDOM Support Act (Pub. L. 102-511, October 24, 1992), section 512 of the of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Pub. L. 103-236, April 30, 1994, and § 219(bb) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4319, Oct. 25, 1994))

* * * * *

ESTABLISHING CATEGORIES OF ALIENS FOR PURPOSES OF REFUGEE DETERMINATIONS

SEC. 599D. [8 U.S.C. 1157 note] (a) **IN GENERAL.**—In the case of an alien who is within a category of aliens established under subsection (b), the alien may establish, for purposes of admission as a refugee under section 207 of the Immigration and Nationality Act, that the alien has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion by asserting such a fear and asserting a credible basis for concern about the possibility of such persecution.

(b) **ESTABLISHMENT OF CATEGORIES.**—

(1) For purposes of subsection (a), the Attorney General, in consultation with the Secretary of State and the Coordinator for Refugee Affairs, shall establish—

(A) one or more categories of aliens who are or were nationals and residents of an independent state of the former Soviet Union or of Estonia, Latvia, or Lithuania¹ and who share common characteristics that identify them as targets of persecution in that state on account of race, religion, nationality, membership in a particular social group, or political opinion, and

(B) one or more categories of aliens who are or were nationals and residents of Vietnam, Laos, or Cambodia and who share common characteristics that identify them as targets of persecution in such respective foreign state on such an account.

(2)(A) Aliens who are (or were) nationals and residents of an independent state of the former Soviet Union or of Estonia, Latvia, or Lithuania¹ and who are Jews or Evangelical Christians shall be deemed a category of alien established under paragraph (1)(A).

(B) Aliens who are (or were) nationals of an independent state of the former Soviet Union or of Estonia, Latvia, or Lithuania¹ and who are current members of, and demonstrate public, active, and continuous participation (or attempted participation) in the religious activities of, the Ukrainian Catholic Church or the Ukrainian Orthodox Church, shall be deemed a category of alien established under paragraph (1)(A).

(C) Aliens who are (or were) nationals and residents of Vietnam, Laos, or Cambodia and who are members of categories of individuals determined, by the Attorney General in accordance with "Immigration and Naturalization Service Worldwide Guidelines for Overseas Refugee Processing" (issued by the Immigration and Naturalization Service in August 1983) shall be deemed a category of alien established under paragraph (1)(B).

¹ § 582(b)(1)(A) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Pub. L. 102-391, October 6, 1992, 106 Stat. 1686) substituted "an independent state of the former Soviet Union or of Estonia, Latvia, or Lithuania" for references to "the Soviet Union" in paragraphs (1)(A), (2)(A), and (2)(B). A duplicative amendment was made by section 905(b)(1) of the FREEDOM Support Act (Pub. L. 102-511, October 24, 1992).

(3) Within the number of admissions of refugees allocated for each of fiscal years 1990, 1991, and 1992² for refugees who are nationals of the Soviet Union under section 207(a)(3) of the Immigration and Nationality Act² (and within the number of such admissions allocated for each of fiscal years 1993, 1994, 1995, and 1996 for refugees who are nationals of the independent states of the former Soviet Union, Estonia, Latvia, and Lithuania under such section)³ and within the number of such admissions allocated for each of fiscal years 1993, 1994, 1995, and 1996 for refugees who are nationals of the independent states of the former Soviet Union, Estonia, Latvia, and Lithuania under such section, notwithstanding any other provision of law, the President shall allocate one thousand of such admissions for such fiscal year to refugees who are within the category of aliens described in paragraph (2)(B).

(c) WRITTEN REASONS FOR DENIALS OF REFUGEE STATUS.—Each decision to deny an application for refugee status of an alien who is within a category established under this section shall be in writing and shall state, to the maximum extent feasible, the reason for the denial.

(d) PERMITTING CERTAIN ALIENS WITHIN CATEGORIES TO REAPPLY FOR REFUGEE STATUS.—Each alien who is within a category established under this section and who (after August 14, 1988, and before the date of the enactment of this Act) was denied refugee status shall be permitted to reapply for such status. Such an application shall be determined taking into account the application of this section.

(e) PERIOD OF APPLICATION.—

(1) Subsections (a) and (b) shall take effect on the date of the enactment of this Act and shall only apply to applications for refugee status submitted before October 1, 1996.⁴

(2) Subsection (c) shall apply to decisions made after the date of the enactment of this Act and before October 1, 1996.⁴

(3) Subsection (d) shall take effect on the date of the enactment of this Act and shall only apply to reapplications for refugee status submitted before October 1, 1996.⁴

[Subsection (f) was repealed by § 582(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (P.L. 102-391, 106 Stat. 1686, Oct. 6, 1992).]

ADJUSTMENT OF STATUS FOR CERTAIN SOVIET AND INDOCHINESE PAROLEES

SEC. 599E. [8 U.S.C. 1255 note] (a) IN GENERAL.—The Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence if the alien—

(1) applies for such adjustment,

(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed,

(3) is admissible to the United States as an immigrant, except as provided in subsection (c), and

(4) pays a fee (determined by the Attorney General) for the processing of such application.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided in subsection (a) shall only apply to an alien who—

² § 598(a)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Pub. L. 101-513, Nov. 5, 1990, 104 Stat. 2063) substituted “for each of fiscal years 1990, 1991, and 1992” for “fiscal year 1990” and § 512(1)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Pub. L. 103-236, Apr. 30, 1994, 108 Stat. 466) struck “1993 and 1994” and inserted “1993, 1994, 1995, and 1996”.

³ § 582(a)(1)(A) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Pub. L. 102-391, October 6, 1992, 106 Stat. 1686) inserted the matter relating to fiscal years 1993 and 1994 following the closing brace. The duplicative language shown in braces was inserted by section 905(a)(1) of the FREEDOM Support Act (Pub. L. 102-511, October 24, 1992).

⁴ § 598(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, Pub. L. 101-513, Nov. 5, 1990, 104 Stat. 2063) substituted “October 1, 1992” for “October 1, 1990”, § 582(a)(1)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Pub. L. 102-391, October 6, 1992, 106 Stat. 1686) substituted “October 1, 1994” for “October 1, 1992” (a duplicative amendment was made by section 905(a)(2) of the FREEDOM Support Act (Pub. L. 102-511, October 24, 1992)), and § 512(1)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Pub. L. 103-236, Apr. 30, 1994, 108 Stat. 466) substituted “October 1, 1996” for “October 1, 1994”.

(1) was a national of an independent state of the former Soviet Union or of Estonia, Latvia, Lithuania,⁵ Vietnam, Laos, or Cambodia, and

(2) was inspected and granted parole into the United States during the period beginning on August 15, 1988, and ending on September 30, 1994,⁶ after being denied refugee status.

(c) **WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.**—The provisions of paragraphs (4), (5), and (7)(A)⁷ of section 212(a) of the Immigration and Nationality Act shall not apply to adjustment of status under this section and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) or subparagraph (A), (B), (C), or (E) of paragraph (3)) with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(d) **DATE OF APPROVAL.**—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission as a lawful permanent resident as of the date of the alien's inspection and parole described in subsection (b)(2).

(e) **NO OFFSET IN NUMBER OF VISAS AVAILABLE.**—When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act.

I. IMMIGRATION NURSING RELIEF ACT OF 1989

(Public Law 101-238, December 18, 1989; as amended by section 162(f)(1) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5011) and sections 302(e)(10 and 307(l)(10) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1746 and 1757)

SECTION 1. SHORT TITLE.

This Act may be cited as the "Immigration Nursing Relief Act of 1989".

SEC. 2. ADJUSTMENT OF STATUS FOR CERTAIN H-1 NONIMMIGRANT NURSES.

(a) **IN GENERAL.**—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act shall not apply to the adjustment of status under section 245 of such Act of an immigrant, and the immigrant's accompanying spouse and children—

(1) who, as of September 1, 1989, has the status of a nonimmigrant under paragraph (15)(H)(i) of section 101(a) of such Act to perform services as a registered nurse,

(2) who, for at least 3 years before the date of application for adjustment of status (whether or not before, on, or after, the date of the enactment of this Act), has been employed as a registered nurse in the United States, and

⁵ § 582(b)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Pub. L. 102-391, October 6, 1992, 106 Stat. 1686) substituted "an independent state of the former Soviet Union or of Estonia, Latvia, Lithuania" for "the Soviet Union". A duplicative amendment was made by section 905(b)(2) of the FREEDOM Support Act (Pub. L. 102-511, October 24, 1992).

⁶ § 598(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, Pub. L. 101-513, Nov. 5, 1990, 104 Stat. 2063) substituted "September 30, 1992" for "September 30, 1990", § 582(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Pub. L. 102-391, October 6, 1992, 106 Stat. 1686) substituted "September 30, 1994" for "September 30, 1992", and § 512(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Pub. L. 103-236, Apr. 30, 1994, 108 Stat. 466) substituted "September 1, 1996" for "September 1, 1994".

⁷ § 603(a)(22) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5084) substituted a reference to paragraphs "(4), (5), and (7)(A)" for a reference to paragraphs "(14), (15), (20), (21), (25), (28) (other than subparagraph (F)), and (32)" and § 307(l)(9) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1757) substituted as reference to "(2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)" for a reference to "(23)(B), (27), (29), or (33)": § 219(bb) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4319, Oct. 25, 1994) substituted "or subparagraph" for "and subparagraphs", effective as if included in the enactment of the Immigration Act of 1990.

(3) whose continued employment as a registered nurse in the United States meets the standards established for the certification described in section 212(a)(5)(A)¹ of such Act.

The Attorney General shall promulgate regulations to carry out this subsection by not later than 90 days after the date of the enactment of this Act.

(b) **TRANSITION.**—For purposes of adjustment of status under section 245 of the Immigration and Nationality Act in the case of an alien who, as of September 1, 1989,² is present in the United States in the status³ of a nonimmigrant under section 101(a)(15)(H)(i) of such Act to perform services as a registered nurse,⁴ who, as of September 1, 1989, is present in the United States and had been admitted to the United States in the status of nonimmigrant under section 101(a)(15)(H)(i) of such Act to perform services as a registered nurse but has failed to maintain that status due to the expiration of the time limitation with respect to such status, or who is the spouse or child of such an alien, unauthorized employment⁵ performed before the date of the enactment of the Immigration Act of 1990 shall not be taken into account in applying section 245(c)(2) of the Immigration and Nationality Act and such an alien shall be considered as having continued to maintain⁶ lawful status throughout his or her stay in the United States as a nonimmigrant until the end of the 120-day period beginning on the date the Attorney General promulgates regulations carrying out the amendments made by section 162(f)(1) of the Immigration Act of 1990.

(c) **APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.**—The definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

(d) **APPLICATION PERIOD.**—The alien, and accompanying spouse and children, must apply for such adjustment within the 5-year period beginning on the date the Attorney General promulgates regulations required under subsection (a).

SEC. 3. REQUIREMENTS FOR ADMISSION OF NONIMMIGRANT NURSES DURING 5-YEAR PERIOD.

(a) **ESTABLISHMENT OF A NEW NONIMMIGRANT CLASSIFICATION FOR NON-IMMIGRANT NURSES.**—Section 101(a)(15)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended—

(1) by inserting “(a) who is coming temporarily to the United States to perform services as a registered nurse, who meets the qualifications described in section 212(m)(1), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file and in effect under section 212(m)(2) for the facility for which the alien will perform the services, or (b)” after “(i)”, and

(2) by inserting “(other than services as a registered nurse)” after “to perform services”.

(b) **REQUIREMENTS.**—[Omitted; added subsection (m) to §212.]

(c) **IMPLEMENTATION.**—The Secretary of Labor (in consultation with the Secretary of Health and Human Services) shall—

(1) first publish final regulations to carry out section 212(m) of the Immigration and Nationality Act (as added by this section) not later than the first day of the 8th month beginning after the date of the enactment of this Act (viz., August 1, 1990); and

(2) provide for the appointment (by January 1, 1991) of an advisory group, including representatives of the Secretary, the Secretary of Health and Human

¹ § 307(l)(10) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1757) substituted a reference to “212(a)(5)(A)” for a reference to “212(a)(14)”.

² § 162(f)(1)(A) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5011) substituted September 1, 1989, for December 31, 1989.

³ § 162(f)(1)(B) of that Act substituted “status” for “lawful status”.

⁴ The phrase “who, as of September 1, 1989” through “time limitation with respect to such status” was inserted by § 302(e)(10) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1746), effective as if included in the Immigration Nursing Relief Act of 1989.

⁵ § 162(f)(1)(C) of the Immigration Act of 1990 inserted the phrase “unauthorized employment” and all that follows through “Nationality Act and”.

⁶ § 162(f)(1)(D) of that Act struck “lawful status as such a nonimmigrant until the end of the 120-day period beginning on the date the Attorney General promulgates regulations carrying out subsection (a)” and inserted all that follows “maintain”.

Services, the Attorney General, hospitals, and labor organizations representing registered nurses, to advise the Secretary—

- (A) concerning the impact of this section on the nursing shortage,
- (B) on programs that medical institutions may implement to recruit and retain registered nurses who are United States citizens or immigrants who are authorized to perform nursing services,
- (C) on the formulation of State recruitment and retention plans under section 212(m)(3) of the Immigration and Nationality Act, and
- (D) on the advisability of extending the amendments made by this section beyond the 5-year period described in subsection (d).

(d) **LIMITING APPLICATION OF NONIMMIGRANT CHANGES TO 5-YEAR PERIOD.**—The amendments made by the previous provisions of this section shall apply to classification petitions filed for nonimmigrant status only during the 5-year period beginning on [viz., September 1, 1990] the first day of the 9th month beginning after the date of the enactment of this Act.

SEC. 4. FRAUD PREVENTION IN SAW PROGRAM.

(a) Section 210(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1160(a)(3)) is amended by—

- (1) inserting “(A)” before “During”, and
- (2) inserting at the end of such paragraph the following new subparagraph: “(B) Before any alien becomes eligible for adjustment of status under paragraph (2), the Attorney General may deny adjustment to permanent status and provide for termination of the temporary resident status granted such alien under paragraph (1) if—

“(i) the Attorney General finds by a preponderance of the evidence that the adjustment to temporary resident status was the result of fraud or willful misrepresentation as set out in section 212(a)(19), or

“(ii) the alien commits an act that (I) makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (c)(2), or (II) is convicted of a felony or 3 or more misdemeanors committed in the United States.”.

(b) Section 210(b)(6)(A) of the Immigration and Nationality Act (8 U.S.C. 1160) is amended to read as follows:

“(A) use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application including a determination under subparagraph (a)(3)(B), or for enforcement of paragraph (7).”.

SEC. 5. PILOT PROJECTS FOR SECURE DOCUMENTS.

(a) **CONSULTATION.**—Before June 1, 1991, the Attorney General shall consult with State governments on any proper State initiative to improve the security of State or local documents which would satisfy the requirements of section 274A(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a). The result of such consultations shall be reported, before September 1, 1991, to the Committees on the Judiciary of the Senate and House of Representatives of the United States.

(b) **ASSISTANCE FOR STATE INITIATIVES.**—After such consultation described in subsection (a), the Attorney General shall make grants to, and enter into contracts with (to such extent or in such amounts as are provided in an appropriation Act), the State of California and at least 2 other States with large immigrant populations to promote any State initiatives to improve the security of State or local documents which would satisfy the requirements of section 274A(b)(1) of the Immigration and Nationality Act.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Attorney General \$10,000,000 for fiscal year 1992 to carry out subsection (b).

(d) **REPORT REQUIRED.**—The Attorney General shall report to the Committees on the Judiciary of the Senate and House of Representatives not later than August 1, 1993, on the security of State or local documents which would satisfy the requirements of section 274A(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a), and any improvements in such documents that have occurred as a result of this section.

SEC. 6. ADDITIONAL USES OF STATE LEGALIZATION IMPACT ASSISTANCE GRANT FUNDS.

(a) **IN GENERAL.**—Section 204(c) of the Immigration Reform and Control Act of 1986 is amended—

- (1) in paragraph (1)—
 - (A) by striking “and” at the end of subparagraph (B),

(B) by striking the period at the end of subparagraph (C) and inserting a comma, and

(C) by inserting after subparagraph (C) the following new subparagraphs:

“(D) to make payments for public education and outreach (including the provision of information to individual applicants) to inform temporary resident aliens regarding—

“(i) the requirements of sections 210, 210A, and 245A of the Immigration and Nationality Act regarding the adjustment of resident status,

“(ii) sources of assistance for such aliens obtaining the adjustment of status described in clause (i), including educational, informational, referral services, and the rights and responsibilities of such aliens and aliens lawfully admitted for permanent residence,

“(iii) the identification of health, employment, and social services, and

“(iv) the importance of identifying oneself as a temporary resident alien to service providers,

except that nothing in this subparagraph may be construed as authorizing the provision of client counseling or any other service which would assume responsibility for the alien's application for the adjustment of status described in clause (i),

“(E)(i) subject to clause (ii), to make payments for education and outreach efforts by State agencies regarding unfair discrimination in employment practices based on national origin or citizenship status,

“(ii) except that the State agencies shall not initiate such efforts until after such consultation with the Office of the Special Counsel for Unfair Immigration-Related Employment Practices as is appropriate to ensure, to the maximum extent feasible, a uniform program.”; and

(2) in paragraph (2), by adding at the end the following new subparagraph:

“(D) Of the amount allotted to a State with respect to any fiscal year, a State may not use more than—

“(i) 1 percent (or, if greater, \$100,000) for payments under paragraph (1)(D), and

“(ii) 1 percent (or, if greater, \$100,000) for payments under paragraph (1)(E).”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to the use of allotments for fiscal years beginning with fiscal year 1989.

J. FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1990 AND 1991

(Public Law 101-246, February 16, 1990)

* * * * *

SEC. 128. PROHIBITION ON EXCLUSION OR DEPORTATION OF NONIMMIGRANT ALIENS ON CERTAIN GROUNDS.

(a) **TECHNICAL CORRECTION.**—Section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is amended in subsection (a) by inserting “subject to restrictions or conditions on entry into the United States,” after “United States,” the first place it appears.

(b) **REPEAL OF TERMINATION PROVISION.**—Subsection (d) of section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is repealed.

* * * * *

SEC. 131. EXCLUSION OF ALIENS PREVIOUSLY INVOLVED IN SERIOUS CRIMINAL OFFENSES COMMITTED IN THE UNITED STATES.

(a) **GROUND OF EXCLUSION.**—[Omitted; added paragraph (34) to section 212(a) of the INA]

(b) **DEFINITION.**—[Omitted; added subsection (h) to section 101 of the INA]

(c) **WAIVER.**—Section 212(h) of the Immigration and Nationality Act (8 U.S.C. 1182(h)) is amended by striking out “or (12)” and inserting in lieu thereof “(12), or (34)”.

(d) **REPORT CONCERNING COMPENSATION AND DIPLOMATIC IMMUNITY.**—(1) Not later than 180 days after the date of enactment of this Act, the Secretary of State shall prepare and submit to the appropriate committees of the Congress a report which considers the need and feasibility of establishing a program which makes compensation awards to United States citizens and permanent resident aliens in the United States for physical injury or financial loss which is the result of criminal activity reasonably believed to have been committed by individuals with immunity from criminal jurisdiction as a result of international obligations of the United States arising from multilateral agreements, bilateral agreements, or otherwise under international law.

(2) Together with such other information as the Secretary of State considers appropriate, the report shall include—

(A) a plan and feasibility analysis for the establishment of such a program, including—

(i) specific recommendations for funding, administration, and procedures and standards for compensation and payment of awards; and

(ii) particular consideration of the feasibility of an appeals mechanism;

(B) an assessment of—

(i) the feasibility of establishing a fund;

(ii) the availability of existing accounts; or

(iii) other sources of funding for the program; and

(C) consideration of other possible mechanisms for compensation or reimbursement, including direct compensation by the individual with immunity from criminal jurisdiction or by the sending country of that individual.

* * * * *

SEC. 407. DENIAL OF VISAS TO CERTAIN REPRESENTATIVES TO THE UNITED NATIONS.

(a) **IN GENERAL.**—The President shall use his authority, including the authorities contained in section 6 of the United Nations Headquarters Agreement Act (Public Law 80-357), to deny any individual's admission to the United States as a representative to the United Nations if the President determines that such individual has been found to have been engaged in espionage activities directed against the United States or its allies and may pose a threat to United States national security interests.

(b) **WAIVER.**—The President may waive the provisions of subsection (a) if the President determines, and so notifies the Congress, that such a waiver is in the national security interests of the United States.

K. FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1992 AND 1993

(Public Law 102-138, October 28, 1991)

* * * * *

SEC. 128. VISA LOOKOUT SYSTEMS.

(a) **VISAS.**—The Secretary of State may not include in the Automated Visa Lookout System, or in any other system or list which maintains information about the excludability of aliens under the Immigration and Nationality Act, the name of any alien who is not excludable from the United States under the Immigration and Nationality Act, subject to the provisions of this section.

(b) **CORRECTION OF LISTS.**—Not later than 3 years after the date of enactment of this Act, the Secretary of State shall—

(1) correct the Automated Visa Lookout System, or any other system or list which maintains information about the excludability of aliens under the Immigration and Nationality Act, by deleting the name of any alien not excludable under the Immigration and Nationality Act; and

(2) report to the Congress concerning the completion of such correction process.

(c) **REPORT ON CORRECTION PROCESS.**—

(1) Not later than 90 days after the date of enactment of this Act, the Secretary of State, in coordination with the heads of other appropriate Government agencies, shall prepare and submit to the appropriate congressional committees, a plan which sets forth the manner in which the Department of State will cor-

rect the Automated Visa Lookout System, and any other system or list as set forth in subsection (b).

(2) Not later than 1 year after the date of enactment of this Act, the Secretary of State shall report to the appropriate congressional committees on the progress made toward completing the correction of lists as set forth in subsection (b).

(d) APPLICATION.—This section refers to the Immigration and Nationality Act as in effect on and after June 1, 1991.

(e) LIMITATION.—

(1) The Secretary may add or retain in such system or list the names of aliens who are not excludable only if they are included for otherwise authorized law enforcement purposes or other lawful purposes of the Department of State. A name included for other lawful purposes under this paragraph shall include a notation which clearly and distinctly indicates that such person is not presently excludable. The Secretary of State shall adopt procedures to ensure that visas are not denied to such individuals for any reason not set forth in the Immigration and Nationality Act.

(2) The Secretary shall publish in the Federal Register regulations and standards concerning maintenance and use by the Department of State of systems and lists for purposes described in paragraph (1).

(3) Nothing in this section may be construed as creating new authority or expanding any existing authority for any activity not otherwise authorized by law.

(f) DEFINITION.—As used in this section the term “appropriate congressional committees” means the Committee on the Judiciary and the Committee on Foreign Affairs of the House of Representatives and the Committee on the Judiciary and the Committee on Foreign Relations of the Senate.

L. CHINESE STUDENT PROTECTION ACT OF 1992

(Public Law 102–404, October 9, 1992)

SECTION 1. SHORT TITLE.

This Act may be cited as the “Chinese Student Protection Act of 1992”.

SEC. 2. ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS OF CERTAIN NATIONALS OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) IN GENERAL.—Subject to subsection (c)(1), whenever an alien described in subsection (b) applies for adjustment of status under section 245 of the Immigration and Nationality Act during the application period (as defined in subsection (e)) the following rules shall apply with respect to such adjustment:

(1) The alien shall be deemed to have had a petition approved under section 204(a) of such Act for classification under section 203(b)(3)(A)(i) of such Act.

(2) The application shall be considered without regard to whether an immigrant visa number is immediately available at the time the application is filed.

(3) In determining the alien's admissibility as an immigrant, and the alien's eligibility for an immigrant visa—

(A) paragraphs (5) and (7)(A) of section 212(a) and section 212(e) of such Act shall not apply; and

(B) the Attorney General may waive any other provision of section 212(a) (other than paragraph (2)(C) and subparagraph (A), (B), (C), or (E) of paragraph (3)) of such Act with respect to such adjustment for humanitarian purposes, for purposes of assuring family unity, or if otherwise in the public interest.

(4) The numerical level of section 202(a)(2) of such Act shall not apply.

(5) Section 245(c) of such Act shall not apply.

(b) ALIENS COVERED.—For purposes of this section, an alien described in this subsection is an alien who—

(1) is a national of the People's Republic of China described in section 1 of Executive Order No. 12711 as in effect on April 11, 1990;

(2) has resided continuously in the United States since April 11, 1990 (other than brief, casual, and innocent absences); and

- (3) was not physically present in the People's Republic of China for longer than 90 days after such date and before the date of the enactment of this Act.
- (c) **CONDITION; DISSEMINATION OF INFORMATION.**—
- (1) **NOT APPLICABLE IF SAFE RETURN PERMITTED.**—Subsection (a) shall not apply to any alien if the President has determined and certified to Congress, before the first day of the application period, that conditions in the People's Republic of China permit aliens described in subsection (b)(1) to return to that foreign state in safety.
- (2) **DISSEMINATION OF INFORMATION.**—If the President has not made the certification described in paragraph (1) by the first day of the application period, the Attorney General shall, subject to the availability of appropriations, immediately broadly disseminate to aliens described in subsection (b)(1) information respecting the benefits available under this section. To the extent practicable, the Attorney General shall provide notice of these benefits to the last known mailing address of each such alien.
- (d) **OFFSET IN PER COUNTRY NUMERICAL LEVEL.**—
- (1) **IN GENERAL.**—The numerical level under section 202(a)(2) of the Immigration and Nationality Act applicable to natives of the People's Republic of China in each applicable fiscal year (as defined in paragraph (3)) shall be reduced by 1,000.
- (2) **ALLOTMENT IF SECTION 202(e) APPLIES.**—If section 202(e) of the Immigration and Nationality Act is applied to the People's Republic of China in an applicable fiscal year, in applying such section—
- (A) 300 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(3)(A)(i) of such Act in that year, and
- (B) 700 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(5) of such Act in that year.
- (3) **APPLICABLE FISCAL YEAR.**—
- (A) **IN GENERAL.**—In this subsection, the term “applicable fiscal year” means each fiscal year during the period—
- (i) beginning with the fiscal year in which the application period begins; and
- (ii) ending with the first fiscal year by the end of which the cumulative number of aliens counted for all fiscal years under subparagraph (B) equals or exceeds the total number of aliens whose status has been adjusted under section 245 of the Immigration and Nationality Act pursuant to subsection (a).
- (B) **NUMBER COUNTED EACH YEAR.**—The number counted under this subparagraph for a fiscal year (beginning during or after the application period) is 1,000, plus the number (if any) by which (i) the immigration level under section 202(a)(2) of the Immigration and Nationality Act for the People's Republic of China in the fiscal year (as reduced under this subsection), exceeds (ii) the number of aliens who were chargeable to such level in the year.
- (e) **APPLICATION PERIOD DEFINED.**—In this section, the term “application period” means the 12-month period beginning July 1, 1993.

M. SOVIET SCIENTISTS IMMIGRATION ACT OF 1992

(Public Law 102-509, October 24, 1992)

SECTION 1. SHORT TITLE.

This Act may be cited as the “Soviet Scientists Immigration Act of 1992”.

SEC. 2. DEFINITIONS.

For purposes of this Act—

- (1) the term “Baltic states” means the sovereign nations of Latvia, Lithuania, and Estonia;
- (2) the term “independent states of the former Soviet Union” means the sovereign nations of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan,

Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; and

(3) the term "eligible independent states and Baltic scientists" means aliens—

(A) who are nationals of any of the independent states of the former Soviet Union or the Baltic states; and

(B) who are scientists or engineers who have expertise in nuclear, chemical, biological or other high technology fields or who are working on nuclear, chemical, biological or other high-technology defense projects, as defined by the Attorney General.

SEC. 3. WAIVER OF JOB OFFER REQUIREMENT.

The requirement in section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)) that an alien's services in the sciences, arts, or business be sought by an employer in the United States shall not apply to any eligible independent states or Baltic scientist who is applying for admission to the United States for permanent residence in accordance with that section.

SEC. 4. CLASSIFICATION OF INDEPENDENT STATES SCIENTISTS AS HAVING EXCEPTIONAL ABILITY.

(a) IN GENERAL.—The Attorney General shall designate a class of eligible independent states and Baltic scientists, based on their level of expertise, as aliens who possess "exceptional ability in the sciences", for purposes of section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)), whether or not such scientists possess advanced degrees.

(b) REGULATIONS.—The Attorney General shall prescribe regulations to carry out subsection (a).

(c) LIMITATION.—Not more than 750 eligible independent states and Baltic scientists (excluding spouses and children if accompanying or following to join) within the class designated under subsection (a) may be allotted visas under section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)).

(d) TERMINATION.—The authority of subsection (a) shall terminate 4 years after the date of enactment of this Act.

N. FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1994 AND 1995

(Public Law 103-236, April 30, 1994, as amended by § 505 of Pub. L. 103-317 and § 140 of Pub. L. 103-415)

* * * * *

SEC. 140. VISAS.

(a) SURCHARGE FOR PROCESSING CERTAIN VISAS.—

(1) Notwithstanding any other provision of law, the Secretary of State is authorized to charge a fee or surcharge for processing machine readable non-immigrant visas and machine readable combined border crossing identification cards and nonimmigrant visas.

(2) Fees collected under the authority of paragraph (1) shall be deposited as an offsetting collection to any Department of State appropriation, to recover the costs of providing consular services. Such fees shall remain available for obligation until expended.

(3) For fiscal years 1994 and 1995, fees deposited under the authority of paragraph (2) may not exceed a total of \$107,500,000. For subsequent fiscal years, fees may be collected under the authority of paragraph (1) only in such amounts as shall be prescribed in subsequent authorization Acts.

(4) The provisions of the Act of August 18, 1856 (Revised Statutes 1726-28; 22 U.S.C. 4212-14), concerning accounting for consular fees shall not apply to fees collected under this subsection.

(5) No fee or surcharge authorized under paragraph (1) may be charged to a citizen of a country that is a signatory as of the date of enactment of this Act to the North American Free Trade Agreement, except that the Secretary of State may charge such fee or surcharge to a citizen of such a country if the Secretary determines that such country charges a visa application or issuance fee to citizens of the United States.

(b) AUTOMATED VISA LOOKOUT SYSTEM.—Not later than 18 months after the date of the enactment of this Act, the Secretary of State shall implement an upgrade

of all overseas visa lookout operations to computerized systems with automated multiple-name search capabilities.

(c) PROCESSING OF VISAS FOR ADMISSION TO THE UNITED STATES.—

(1)(A) Beginning 24 months after the date of the enactment of this Act, whenever a United States consular officer issues a visa for admission to the United States, that official shall certify, in writing, that a check of the Automated Visa Lookout System, or any other system or list which maintains information about the excludability of aliens under the Immigration and Nationality Act, has been made and that there is no basis under such system for the exclusion of such alien.

(B) If, at the time an alien applies for an immigrant or nonimmigrant visa, the alien's name is included in the Department of State's visa lookout system and the consular officer to whom the application is made fails to follow the procedures in processing the application required by the inclusion of the alien's name in such system, the consular officer's failure shall be made a matter of record and shall be considered as a serious negative factor in the officer's annual performance evaluation.

(2) If an alien to whom a visa was issued as a result of a failure described in paragraph (1)(B) is admitted to the United States and there is thereafter probable cause to believe that the alien was a participant in a terrorist act causing serious injury, loss of life, or significant destruction of property,* the Secretary of State shall convene an Accountability Review Board under the authority of title III of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

(d) ACCESS TO THE INTERSTATE IDENTIFICATION INDEX.—

(1) Subject to paragraphs (2) and (3), the Department of State Consolidated Immigrant Visa Processing Center shall have on-line access, without payment of any fee or charge, to the Interstate Identification Index of the National Crime Information Center solely for the purpose of determining whether a visa applicant has a criminal history record indexed in such Index. Such access does not entitle the Department of State to obtain the full content of automated records through the Interstate Identification Index. To obtain the full content of a criminal history record, the Department shall submit a separate request to the Identification Records Section of the Federal Bureau of Investigation, and shall pay the appropriate fee as provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162).

(2) The Department of State shall be responsible for all one-time start-up and recurring incremental non-personnel costs of establishing and maintaining the access authorized in paragraph (1).

(3) The individual primarily responsible for the day-to-day implementation of paragraph (1) shall be an employee of the Federal Bureau of Investigation selected by the Department of State, and detailed to the Department on a fully reimbursable basis.

(4) Not later than December 31, 1996, the Secretary of State and the Director of the Federal Bureau of Investigation shall jointly submit to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives, and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate, a report on the effectiveness of the procedure authorized in this subsection.

(5) This subsection shall cease to have effect after December 31, 1997.

* § 1(d) of P.L. 103-415 struck "serious loss of life or property in the United States" and inserted "serious injury, loss of life, or significant destruction of property".

O. TITLE XIII OF THE VIOLENT CRIME CONTROL AND LAW
ENFORCEMENT ACT OF 1994

(Public Law 103-322, September 13, 1994)

**TITLE XIII—CRIMINAL ALIENS AND
IMMIGRATION ENFORCEMENT**

**SEC. 130001. ENHANCEMENT OF PENALTIES FOR FAILING TO DEPART, OR REENTERING,
AFTER FINAL ORDER OF DEPORTATION.**

- (a) FAILURE TO DEPART.—[Omitted; amended section 242(e) of the INA.]
- (b) REENTRY.—[Omitted; amended section 276(b) of the INA.]

SEC. 130002. CRIMINAL ALIEN TRACKING CENTER.

(a) OPERATION.—The Attorney General shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

- (1) \$3,400,000 for fiscal year 1996;
- (2) \$3,600,000 for fiscal year 1997;
- (3) \$3,700,000 for fiscal year 1998;
- (4) \$3,800,000 for fiscal year 1999; and
- (5) \$3,900,000 for fiscal year 2000.

SEC. 130003. ALIEN WITNESS COOPERATION AND COUNTERTERRORISM INFORMATION.

(a) ESTABLISHMENT OF NEW NONIMMIGRANT CLASSIFICATION.—[Omitted; added a subparagraph (S) to section 101(a)(15) of the INA.]

(b) CONDITIONS OF ENTRY.—

(1) WAIVER OF GROUNDS FOR EXCLUSION.—[Omitted; inserted paragraph (1) to section 212(d) of the INA.]

(2) NUMERICAL LIMITATIONS; PERIOD OF ADMISSION; ETC.—[Omitted; added a subsection (j) to section 214 of the INA.]

(3) PROHIBITION OF CHANGE OF STATUS.—[Omitted; amended section 248(1) of the INA.]

(c) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—[Omitted; added a subsection (i) to section 245 of the INA.]

(2) EXCLUSIVE MEANS OF ADJUSTMENT.—[Omitted; inserted a clause (5) in section 245(c) of the INA.]

(d) EXTENSION OF PERIOD OF DEPORTATION FOR CONVICTION OF A CRIME.—[Omitted; amended section 241(a)(2)(A)(i)(I) of the INA.]

**SEC. 130004. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT
PERMANENT RESIDENTS.**

(a) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—[Omitted; added a subsection (b) as the end of section 242A of the INA.]

(b) LIMITED JUDICIAL REVIEW.—[Omitted; amended section 106(a) of the INA and added subsection (d) to section 106 of the INA.]

(c) TECHNICAL AMENDMENTS.—[Omitted; amended section 242A of the INA.]

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 130005. EXPEDITIOUS DEPORTATION FOR DENIED ASYLUM APPLICANTS.

(a) IN GENERAL.—The Attorney General may provide for the expeditious adjudication of asylum claims and the expeditious deportation of asylum applicants whose applications have been finally denied, unless the applicant remains in an otherwise valid nonimmigrant status.

(b) EMPLOYMENT AUTHORIZATION.—[Omitted; added subsection (e) to section 208 of the INA.]

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section—

- (1) \$64,000,000 for fiscal year 1995;
- (2) \$90,000,000 for fiscal year 1996;
- (3) \$93,000,000 for fiscal year 1997; and
- (4) \$91,000,000 for fiscal year 1998.

SEC. 130006. IMPROVING BORDER CONTROLS.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for the Immigration and Naturalization Service to increase the resources for the Border Patrol, the Inspections Program, and the Deportation Branch to apprehend illegal aliens who attempt clandestine entry into the United States or entry into the United States with fraudulent documents or who remain in the country after their nonimmigrant visas expire—

- (1) \$228,000,000 for fiscal year 1995;
- (2) \$185,000,000 for fiscal year 1996;
- (3) \$204,000,000 for fiscal year 1997; and
- (4) \$58,000,000 for fiscal year 1998.

Of the sums authorized in this section, all necessary funds shall, subject to the availability of appropriations, be allocated to increase the number of agent positions (and necessary support personnel positions) in the Border Patrol by not less than 1,000 full-time equivalent positions in each of fiscal years 1995, 1996, 1997, and 1998 beyond the number funded as of October 1, 1994.

(b) **REPORT.**—By September 30, 1996 and September 30, 1998, the Attorney General shall report to the Congress on the programs described in this section. The report shall include an evaluation of the programs, an outcome-based measurement of performance, and an analysis of the cost effectiveness of the additional resources provided under this Act.

SEC. 130007. EXPANDED SPECIAL DEPORTATION PROCEEDINGS.

(a) **IN GENERAL.**—Subject to the availability of appropriations, the Attorney General may expand the program authorized by section 242A(d)* and 242(i) of the Immigration and Nationality Act to ensure that such aliens are immediately deportable upon their release from incarceration.

(b) **DETENTION AND REMOVAL OF CRIMINAL ALIENS.**—Subject to the availability of appropriations, the Attorney General may—

- (1) construct or contract for the construction of 2 Immigration and Naturalization Service Processing Centers to detain criminal aliens; and
- (2) provide for the detention and removal of such aliens.

(c) **REPORT.**—By September 30, 1996, and September 30, 1998 the Attorney General shall report to the Congress on the programs referred to in subsections (a) and (b). The report shall include an evaluation of the programs, an outcome-based measurement of performance, and an analysis of the cost effectiveness of the additional resources provided under this Act.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section—

- (1) \$55,000,000 for fiscal year 1995;
- (2) \$54,000,000 for fiscal year 1996;
- (3) \$49,000,000 for fiscal year 1997; and
- (4) \$2,000,000 for fiscal year 1998.

SEC. 130008. AUTHORITY TO ACCEPT CERTAIN ASSISTANCE.

(a) **IN GENERAL.**—Subject to subsection (b) and notwithstanding any other provision of law, the Attorney General, in the discretion of the Attorney General, may accept, hold, administer, and utilize gifts of property and services (which may not include cash assistance) from State and local governments for the purpose of assisting the Immigration and Naturalization Service in the transportation of deportable aliens who are arrested for misdemeanor or felony crimes under State or Federal law and who are either unlawfully within the United States or willing to submit to voluntary departure under safeguards. Any property acquired pursuant to this section shall be acquired in the name of the United States.

(b) **LIMITATION.**—The Attorney General shall terminate or rescind the exercise of the authority under subsection (a) if the Attorney General determines that the exercise of such authority has resulted in discrimination by law enforcement officials on the basis of race, color, or national origin.

* Should be a reference to section 242A(a)(3).

SEC. 130009. PASSPORT AND VISA OFFENSES PENALTIES IMPROVEMENT.

(a) **IN GENERAL.**—Chapter 75 of title 18, United States Code, is amended—

(1) in section 1541 by striking “not more than \$500 or imprisoned not more than one year” and inserting “under this title, imprisoned not more than 10 years”;

(2) in each of sections 1542, 1543, and 1544 by striking “not more than \$2,000 or imprisoned not more than five years” and inserting “under this title, imprisoned not more than 10 years”;

(3) in section 1545 by striking “not more than \$2,000 or imprisoned not more than three years” and inserting “under this title, imprisoned not more than 10 years”;

(4) in section 1546(a) by striking “five years” and inserting “10 years”;

(5) in section 1546(b) by striking “in accordance with this title, or imprisoned not more than two years” and inserting “under this title, imprisoned not more than 5 years”; and

(6) by adding at the end the following new section:

“§ 1547. Alternative imprisonment maximum for certain offenses

“Notwithstanding any other provision of this title, the maximum term of imprisonment that may be imposed for an offense under this chapter (other than an offense under section 1545)—

“(1) if committed to facilitate a drug trafficking crime (as defined in 929(a)) is 15 years; and

“(2) if committed to facilitate an act of international terrorism (as defined in section 2331) is 20 years.”.

(b) **TECHNICAL AMENDMENT.**—The chapter analysis for chapter 75 of title 18, United States Code, is amended by adding at the end the following new item:

“1547. Alternative imprisonment maximum for certain offenses.”.

SEC. 130010. ASYLUM.

(a) **FINDINGS.**—The Senate finds that—

(1) in the last decade applications for asylum have greatly exceeded the original 5,000 annual limit provided in the Refugee Act of 1980, with more than 150,000 asylum applications filed in fiscal year 1993, and the backlog of cases growing to 340,000;

(2) this flood of asylum claims has swamped the system, creating delays in the processing of applications of up to several years;

(3) the delay in processing asylum claims due to the overwhelming numbers has contributed to numerous problems, including—

(A) an abuse of the asylum laws by fraudulent applicants whose primary interest is obtaining work authority in the United States while their claim languishes in the backlogged asylum processing system;

(B) the growth of alien smuggling operations, often involving organized crime;

(C) a drain on limited resources resulting from the high cost of processing frivolous asylum claims through our multilayered system; and

(D) an erosion of public support for asylum, which is a treaty obligation.

(4) asylum, a safe haven protection for aliens abroad who cannot return home, has been perverted by some aliens who use asylum claims to circumvent our immigration and refugee laws and procedures; and

(5) a comprehensive revision of our asylum law and procedures is required to address these problems.

(b) **POLICY.**—It is the sense of the Senate that—

(1) asylum is a process intended to protect aliens in the United States who cannot safely return home;

(2) persons outside their country of nationality who have a well-founded fear of persecution if they return should apply for refugee status at one of our refugee processing offices abroad; and

(3) the immigration, refugee and asylum laws of the United States should be reformed to provide—

(A) a procedure for the expeditious exclusion of any asylum applicant who arrives at a port-of-entry with fraudulent documents, or no documents, and makes a noncredible claim of asylum; and

(B) the immigration, refugee and asylum laws of the United States should be reformed to provide for a streamlined affirmative asylum process—

ing system for asylum applicants who make their application after they have entered the United States.

P. IMMIGRATION AND NATIONALITY TECHNICAL CORRECTIONS ACT OF 1994

(Public Law 103-416, October 25, 1994)

SECTION 1. SHORT TITLE.

This Act may be cited as the "Immigration and Nationality Technical Corrections Act of 1994".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—NATIONALITY AND NATURALIZATION

- Sec. 101. Equal treatment of women in conferring citizenship to children born abroad.
- Sec. 102. Naturalization of children on application of citizen parent.
- Sec. 103. Former citizens of United States regaining United States citizenship.
- Sec. 104. Intent to reside permanently in the United States after naturalization.
- Sec. 105. Terminology relating to expatriation.
- Sec. 106. Administrative and judicial determinations relating to loss of citizenship.
- Sec. 107. Cancellation of United States passports and consular reports of birth.
- Sec. 108. Expanding waiver of the Government knowledge, United States history, and English language requirements for naturalization.
- Sec. 109. Report on citizenship of certain legalized aliens.

TITLE II—TECHNICAL CORRECTIONS OF IMMIGRATION LAWS

- Sec. 201. American Institute in Taiwan.
- Sec. 202. G-4 special immigrants.
- Sec. 203. Clarification of certain grounds for exclusion and deportation.
- Sec. 204. United States citizens entering and departing on United States passports.
- Sec. 205. Applications for visas.
- Sec. 206. Family unity.
- Sec. 207. Technical amendment regarding one-house veto.
- Sec. 208. Authorization of appropriations for refugee assistance for fiscal years 1995, 1996, and 1997.
- Sec. 209. Fines for unlawful bringing of aliens into the United States.
- Sec. 210. Extension of visa waiver pilot program.
- Sec. 211. Creation of probationary status for participant countries in the visa waiver pilot program.
- Sec. 212. Technical changes to numerical limitations concerning certain special immigrants.
- Sec. 213. Extension of telephone employment verification system.
- Sec. 214. Extension of expanded definition of special immigrant for religious workers.
- Sec. 215. Extension of off-campus work authorization for students.
- Sec. 216. Eliminating obligation of carriers to detain stowaways.
- Sec. 217. Completing use of visas provided under diversity transition program.
- Sec. 218. Effect on preference date of application for labor certification.
- Sec. 219. Other miscellaneous and technical corrections to immigration-related provisions.
- Sec. 220. Waiver of foreign country residence requirement with respect to international medical graduates.
- Sec. 221. Visas for officials of Taiwan.
- Sec. 222. Expansion of definition of aggravated felony.
- Sec. 223. Summary deportation.
- Sec. 224. Judicial deportation.
- Sec. 225. Construction of expedited deportation requirements.

TITLE I—NATIONALITY AND NATURALIZATION

SEC. 101. EQUAL TREATMENT OF WOMEN IN CONFERRING CITIZENSHIP TO CHILDREN BORN ABROAD.

(a) IN GENERAL.—[Omitted; added paragraph (h) to § 301 of the INA.]

(b) WAIVER OF RETENTION REQUIREMENTS.—Any provision of law (including section 301(b) of the Immigration and Nationality Act (as in effect before October 10, 1978), and the provisos of section 201(g) of the Nationality Act of 1940) that provided for a person's loss of citizenship or nationality if the person failed to come to, or reside or be physically present in, the United States shall not apply in the case of a person claiming United States citizenship based on such person's descent from an individual described in section 301(h) of the Immigration and Nationality Act (as added by subsection (a)).

(c) **RETROACTIVE APPLICATION.**—(1) Except as provided in paragraph (2), the immigration and nationality laws of the United States shall be applied (to persons born before, on, or after the date of the enactment of this Act) as though the amendment made by subsection (a), and subsection (b), had been in effect as of the date of their birth, except that the retroactive application of the amendment and that subsection shall not affect the validity of citizenship of anyone who has obtained citizenship under section 1993 of the Revised Statutes (as in effect before the enactment of the Act of May 24, 1934 (48 Stat. 797)).

(2) The retroactive application of the amendment made by subsection (a), and subsection (b), shall not confer citizenship on, or affect the validity of any denaturalization, deportation, or exclusion action against, any person who is or was excludable from the United States under section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) (or predecessor provision) or who was excluded from, or who would not have been eligible for admission to, the United States under the Displaced Persons Act of 1948 or under section 14 of the Refugee Relief Act of 1953.

(d) **APPLICATION TO TRANSMISSION OF CITIZENSHIP.**—This section, the amendments made by this section, and any retroactive application of such amendments shall not effect any residency or other retention requirements for citizenship as in effect before October 10, 1978, with respect to the transmission of citizenship.

SEC. 102. NATURALIZATION OF CHILDREN ON APPLICATION OF CITIZEN PARENT.

(a) **IN GENERAL.**—[Omitted; amended section 322 of the INA in its entirety.]

(b) **CONFORMING AMENDMENT.**—[Omitted; repealed subsection (c) of section 341 of the INA.]

(c) **CLERICAL AMENDMENT.**—[Omitted; amended item in table of contents of INA relating to section 322.]

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act.

SEC. 103. FORMER CITIZENS OF UNITED STATES REGAINING UNITED STATES CITIZENSHIP.

(a) **IN GENERAL.**—[Omitted; added subsection (d) to section 324 of the INA.]

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act.

SEC. 104. INTENT TO RESIDE PERMANENTLY IN THE UNITED STATES AFTER NATURALIZATION.

(a) **IN GENERAL.**—[Omitted; struck certain language from section 338 of the INA.]

(b) **CONFORMING REPEAL.**—[Omitted; repealed section 340(d) of the INA.]

(c) **CONFORMING REDESIGNATION.**—[Omitted; conforming amendments to section 340 of the INA.]

(d) **CONFORMING AMENDMENT.**—[Omitted; struck subsection (b) of section 405 of the Immigration Act of 1990.]

(e) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to persons admitted to citizenship on or after the date of enactment of this Act.

SEC. 105. TERMINOLOGY RELATING TO EXPATRIATION.

(a) **IN GENERAL.**—[Omitted; amended section 351 of the INA by substituting “references to “loss of nationality” for “expatriation”.]

(b) **CLERICAL AMENDMENT.**—[Omitted; amended item in table of contents of INA relating to section 351.]

SEC. 106. ADMINISTRATIVE AND JUDICIAL DETERMINATIONS RELATING TO LOSS OF CITIZENSHIP.

[Omitted; added sentence at the end of section 358 of the INA.]

SEC. 107. CANCELLATION OF UNITED STATES PASSPORTS AND CONSULAR REPORTS OF BIRTH.

(a) **IN GENERAL.**—[Omitted; added section 361 to the INA.]

(b) **CLERICAL AMENDMENT.**—[Omitted; inserted item in table of contents of the INA relating to section 361.]

SEC. 108. EXPANDING WAIVER OF THE GOVERNMENT KNOWLEDGE, UNITED STATES HISTORY, AND ENGLISH LANGUAGE REQUIREMENTS FOR NATURALIZATION.

(a) **IN GENERAL.**—[Omitted; amended §312 of the INA by striking the proviso and adding a subsection (b).]

(b) **CONFORMING AMENDMENTS.**—[Omitted; made conforming amendment to section 245A(b)(1)(D) of the INA.]

(c) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications for naturalization filed on or after such date and to such applications pending on such date.

(d) **REGULATIONS.**—Not later than 120 days after the date of enactment of this Act, the Attorney General shall promulgate regulations to carry out section 312(b)(3) of the Immigration and Nationality Act (as amended by subsection (a)).

SEC. 109. REPORT ON CITIZENSHIP OF CERTAIN LEGALIZED ALIENS.

Not later than June 30, 1996, the Commissioner of the Immigration and Naturalization Service shall prepare and submit to the Congress a report concerning the citizenship status of aliens legalized under section 245A and section 210 of the Immigration and Nationality Act. Such report shall include the following information by district office for each national origin group:

- (1) The number of applications for citizenship filed.
- (2) The number of applications approved.
- (3) The number of applications denied.
- (4) The number of applications pending.

TITLE II—TECHNICAL CORRECTIONS OF IMMIGRATION LAWS

SEC. 201. AMERICAN INSTITUTE IN TAIWAN.

[Omitted; amended section 101(a)(27)(D) of the INA to insert references to the American Institute in Taiwan.]

SEC. 202. G-4 SPECIAL IMMIGRANTS.

[Omitted; amended subclause (II) of § 101(a)(17)(I)(iii) of the INA.]

SEC. 203. CLARIFICATION OF CERTAIN GROUNDS FOR EXCLUSION AND DEPORTATION.

(a) **EXCLUSION GROUNDS.**—[Omitted; amended §§ 212(a)(2)(A)(i) and 212(h) of the INA to add attempts or conspiracies to commit crimes.]

(b) **DEPORTATION GROUNDS.**—[Omitted; amended § 241(a)(2)(C) and 241(a)(3)(B) of the INA to add attempts or conspiracies.]

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to convictions occurring before, on, or after the date of the enactment of this Act.

SEC. 204. UNITED STATES CITIZENS ENTERING AND DEPARTING ON UNITED STATES PASSPORTS.

(a) **IN GENERAL.**—[Omitted; inserted “United States” after “valid” in § 215(b) of the INA.]

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to departures and entries (and attempts thereof) occurring on or after the date of enactment of this Act.

SEC. 205. APPLICATIONS FOR VISAS.

(a) **IN GENERAL.**—[Omitted; amended § 222(a) of the INA.]

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to applications made on or after the date of the enactment of this Act.

SEC. 206. FAMILY UNITY.

(a) **IN GENERAL.**—[Omitted; amended § 301(a) of the Immigration Act of 1990.]

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall be deemed to have become effective as of October 1, 1991.

SEC. 207. TECHNICAL AMENDMENT REGARDING ONE-HOUSE VETO.

Section 13(c) of the Act of September 11, 1957 (8 U.S.C. 1255b(c)) is amended—

- (1) by striking the third sentence; and
- (2) in the fourth sentence, by striking “If neither the Senate nor the House of Representatives passes such a resolution within the time above specified the” and inserting “The”.

SEC. 208. AUTHORIZATION OF APPROPRIATIONS FOR REFUGEE ASSISTANCE FOR FISCAL YEARS 1995, 1996, AND 1997.

[Omitted; amended § 414(a) of the INA.]

SEC. 209. FINES FOR UNLAWFUL BRINGING OF ALIENS INTO THE UNITED STATES.

(a) **IN GENERAL.**—Section 273 of the Immigration and Nationality Act (8 U.S.C. 1323) is amended—

(1) in subsections (b) and (d) by striking "the sum of \$3000" and inserting "a fine of \$3,000" each place it appears;

(2) in the first sentence of subsection (b) by striking "a sum equal" and inserting "an amount equal";

(3) in the second sentence of subsection (d) by striking "a sum sufficient to cover such fine" and inserting "an amount sufficient to cover such fine";

(4) by striking "sum" and "sums" each place either appears and inserting "fine";

(5) in subsection (c) by striking "Such" and inserting "Except as provided in subsection (e), such"; and

(6) by adding at the end the following new subsection:

[Text of subsection (e) omitted.]

(b) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply with respect to aliens brought to the United States more than 60 days after the date of enactment of this Act.

SEC. 210. EXTENSION OF VISA WAIVER PILOT PROGRAM.

[Omitted; amended § 217(f) of the INA.]

SEC. 211. CREATION OF PROBATIONARY STATUS FOR PARTICIPANT COUNTRIES IN THE VISA WAIVER PROGRAM.

[Omitted; amended subsections (a)(2)(B) and (c)(2) of § 217 of the INA and added subsection (g) to that section.]

SEC. 212. TECHNICAL CHANGES TO NUMERICAL LIMITATIONS CONCERNING CERTAIN SPECIAL IMMIGRANTS.

(a) **PANAMA CANAL SPECIAL IMMIGRANTS.**—[Omitted; struck subsection (c) of section 3201 of the Panama Canal Act of 1979 (Public Law 96-70).]

(b) **ARMED FORCES SPECIAL IMMIGRANTS.**—[Omitted; struck subparagraph (C) of § 203(b)(6) of the INA.]

SEC. 213. EXTENSION OF TELEPHONE EMPLOYMENT VERIFICATION SYSTEM.

[Omitted; amended § 274A(d)(4)(A) of the INA.]

SEC. 214. EXTENSION OF EXPANDED DEFINITION OF SPECIAL IMMIGRANT FOR RELIGIOUS WORKERS.

[Omitted; amended subclauses (II) and (III) of section 101(a)(27)(C)(ii) of the INA.]

SEC. 215. EXTENSION OF OFF-CAMPUS WORK AUTHORIZATION FOR STUDENTS.

(a) **IN GENERAL.**—[Omitted; extended for 2 years the period and deadlines under § 221 of the Immigration Act of 1990; there was no subsection (b) in the law.]

SEC. 216. ELIMINATING OBLIGATION OF CARRIERS TO DETAIN STOWAWAYS.

[Omitted; amended first sentence of § 273(d) of the INA.]

SEC. 217. COMPLETING USE OF VISAS PROVIDED UNDER DIVERSITY TRANSITION PROGRAM.

(a) **EXTENSION OF DIVERSITY TRANSITION PROGRAM.**—[Omitted; amended § 132 of the Immigration Act of 1990.]

(b) **ADMINISTRATION OF 1995 DIVERSITY TRANSITION PROGRAM.**—

(1) **ELIGIBILITY.**—For the purpose of carrying out the extension of the diversity transition program under the amendments made by subsection (a), applications for natives of diversity transition countries submitted for fiscal year 1995 for diversity immigrants under section 203(c) of the Immigration and Nationality Act shall be considered applications for visas made available for fiscal year 1995 for the diversity transition program under section 132 of the Immigration Act of 1990. No application period for the fiscal year 1995 diversity transition program shall be established and no new applications may be accepted for visas made available under such program for fiscal year 1995. Applications for visas in excess of the minimum available to natives of the country specified in section 132(c) of the Immigration Act of 1990 shall be selected for qualified applicants within the several regions defined in section 203(c)(1)(F) of the Immigration and Nationality Act in proportion to the region's share of visas issued in the diversity transition program during fiscal years 1992 and 1993.

(2) **NOTIFICATION.**—Not later than 180 days after the date of enactment of this Act, notification of the extension of the diversity transition program for fiscal year 1995 and the provision of visa numbers shall be made to each eligible applicant under paragraph (1).

(3) **REQUIREMENTS.**—Notwithstanding any other provision of law, for the purpose of carrying out the extension of the diversity transition program under the amendments made by subsection (a), the requirement of section 132(b)(2)

of the Immigration Act of 1990 shall not apply to applicants under such extension and the requirement of section 203(c)(2) of the Immigration and Nationality Act shall apply to such applicants.

SEC. 218. EFFECT ON PREFERENCE DATE OF APPLICATION FOR LABOR CERTIFICATION.

Section 161(c)(1) of the Immigration Act of 1990 (Public Law 101-649) is amended—

(1) by striking “or an application for labor certification before such date under section 212(a)(14)”; and

(2) in subparagraph (A)—

(A) by striking “or application”; and

(B) by striking “, or 60 days after the date of certification in the case of labor certifications filed in support of the petition under section 212(a)(14) of such Act before October 1, 1991, but not certified until after October 1, 1993”.

SEC. 219. OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS TO IMMIGRATION-RELATED PROVISIONS.

(a) Section 101(a)(27)(J)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)(i)) is amended by striking “and has” and inserting “or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State and who has”.

(b)(1) The second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by inserting “(and each child of the alien)” after “the alien”.

(2) The second sentence of section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)) is amended—

(A) by inserting “spouse” after “alien”, and

(B) by inserting “of the alien (and the alien’s children)” after “for classification”.

(c) Section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) is amended by striking “TARGETTED”, “TARGETTED”, and “targetted” each place each appears and inserting “TARGETED”, “TARGETED”, and “targeted”, respectively.

(d) Section 210(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1160(d)(3)) is amended by inserting “the” before “Service” the first place it appears.

(e) Section 212(d)(11) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(11)) is amended by striking “voluntary” and inserting “voluntarily”.

(f) Section 258 of the Immigration and Nationality Act (8 U.S.C. 1288) is amended in subsection (d)(3)(B) by striking “subparagraph (A)” and inserting “subparagraph (A)(iii)”.

(g) Section 241(c) of the Immigration and Nationality Act (8 U.S.C. 1251(c)) is amended by striking “or (3)(A) of subsection 241(a)” and inserting “and (3)(A) of subsection (a)”.

(h) Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended by striking “Parole,” and inserting “Parole”.

(i) Section 242B(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1252b(c)(1)) is amended by striking the comma after “that”.

(j) Section 244A(c)(2)(A)(iii)(III) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(2)(A)(iii)(III)) is amended—

(1) by striking “Paragraphs” and inserting “paragraphs”, and

(2) by striking “or (3)(E)” and inserting “and (3)(E)”.

(k) Section 245(h)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1255(h)(2)(B)) is amended by striking “or (3)(E)” and inserting “and (3)(E)”.

(l)(1) Subparagraph (C) of section 245A(c)(7) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(7)), as added by Public Law 102-140, is amended—

(A) by indenting it 2 additional ems to the right; and

(B) by striking “subsection (B)” and inserting “subparagraph (B)”.

(2) Section 610(b) of Public Law 102-140 is amended by striking “404(b)(2)(ii)” and “404(b)(2)(iii)” and inserting “404(b)(2)(A)(ii)” and “404(b)(2)(A)(iii)”, respectively.

(m) Effective as of the date of the enactment of this Act, section 246(a) of the Immigration and Nationality Act (8 U.S.C. 1256(a)) is amended by striking the first 3 sentences.

(n) Section 262(c) of the Immigration and Nationality Act (8 U.S.C. 1302(c)) is amended by striking “subsection (a) and (b)” and inserting “subsections (a) and (b)”.

(o) Section 272(a) of the Immigration and Nationality Act (8 U.S.C. 1322(a)) is amended by striking the comma after “so afflicted”.

(p) The first sentence of section 273(b) of the Immigration and Nationality Act (8 U.S.C. 1323(b)) is amended by striking "collector of customs" and inserting "Commissioner".

(q) Section 274B(g)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1324b(g)(2)(C)) is amended by striking "an administrative law judge" and inserting "the Special Counsel".

(r) Section 274C(b) of the Immigration and Nationality Act (8 U.S.C. 1324c(b)) is amended by striking "title V" and all that follows through "3481" and inserting "chapter 224 of title 18, United States Code".

(s) Section 280(b)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1330(b)(1)(C)) is amended by striking "maintainance" and inserting "maintenance".

(t) Effective as if included in the enactment of Public Law 102-395, subsection (r) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356), as added by section 112 of such Public Law, is amended—

(1) in the subsection heading, by striking "Breached Bond/Detention Account" and inserting "BREACHED BOND/DETENTION FUND";

(2) in paragraph (1), by striking "(hereafter referred to as the Fund)" and inserting "(in this subsection referred to as the 'Fund')";

(3) in paragraph (2), by striking "the Immigration and Nationality Act of 1952, as amended," and inserting "this Act";

(4) in paragraphs (4) and (6), by striking "the Breached Bond/Detention" each place it appears;

(5) in paragraph (4), by striking "of this Act" and inserting "of Public Law 102-395"; and

(6) in paragraph (5), by striking "account" and inserting "Fund".

(u) Section 310(b)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1421(b)(5)(A)) is amended by striking "District Court" and inserting "district court".

(v) Effective December 12, 1991, section 313(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1424(a)(2)) is amended by striking "and" before "(F)" and inserting "or".

(w) Section 333(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1444(b)(1)) is amended by striking "249(a)" and inserting "249".

(x) Section 412(e)(7)(D) of the Immigration and Nationality Act (8 U.S.C. 1522(e)(7)(D)) is amended by striking "paragraph (1) or (2) of".

(y) Section 302(c) of the Immigration Act of 1990 is amended by striking "effect" and inserting "affect".

(z) Effective as if included in the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991—

(1) section 303(a)(7)(B)(i) of such Act is amended by striking "paragraph (1)(A)" and inserting "paragraph (1)(A)(i)";

(2) section 304(b)(2) of such Act is amended by striking "paragraph (1)(B)" and inserting "subsection (c)(1)(B)";

(3) paragraph (1) of section 305(j) of such Act is repealed (and section 407(d)(16)(C) of the Immigration Act of 1990 shall read as if such paragraph had not been enacted);

(4) paragraph (2) of section 306(b) of such Act is amended to read as follows:

"(2) Section 538(a) of the Immigration Act of 1990 is amended by striking the comma after 'Service'.";

(5) section 307(a)(6) of such Act is amended by striking "immigrants" the first place it appears and inserting "immigrant aliens";

(6) section 309(a)(3) of such Act is amended by striking "paragraph (1) and (2)" and inserting "paragraphs (1)(A) and (1)(B)";

(7) section 309(b)(6)(F) of such Act is amended by striking "210(a)(1)(B)(1)(B)" and inserting "210(a)(B)(1)(B)";

(8) section 309(b)(8) of such Act is amended by striking "274A(g)" and inserting "274A(h)"; and

(9) section 310 of such Act is amended—

(A) by adding "and" at the end of paragraph (1);

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2) and by striking "309(c)" and inserting "309(b)".

(aa) Effective as if included in section 4 of Public Law 102-110, section 161(c)(3) of the Immigration Act of 1990 is amended—

(1) by striking "alien described in section 203(a)(3) or 203(a)(6) of such Act" and inserting "alien admitted for permanent residence as a preference immigrant under section 203(a)(3) or 203(a)(6) of such Act (as in effect before such date)"; and

(2) by striking "this section" and inserting "this title".

(bb) Section 599E(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended by striking "and subparagraphs" and inserting "or subparagraph".

(cc) Section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 is amended by striking "year 1993 the first place it appears" and inserting "years 1993".

(dd) Except as otherwise specifically provided in this section, the amendments made by this section shall be effective as if included in the enactment of the Immigration Act of 1990.

(ee)(1) Section 210A of the Immigration and Nationality Act (8 U.S.C. 1161) is repealed.

(2) The table of contents of the Immigration and Nationality Act is amended by striking the item relating to section 210A.

(ff) Section 122 of the Immigration Act of 1990 is amended by striking subsection (a).

(gg) The Copyright Royalty Tribunal Reform Act of 1993 (Public Law 103-198; 107 Stat. 2304) is amended by striking section 8.

SEC. 220. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) **WAIVER.**—[Omitted; amended § 212(e) of the INA.]

(b) **RESTRICTIONS ON WAIVER.**—[Omitted; added a subsection (k) at the end of § 214 of the INA.]

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to aliens admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act, or acquiring such status after admission to the United States, before, on, or after the date of enactment of this Act and before June 1, 1996.

SEC. 221. VISAS FOR OFFICIALS OF TAIWAN.

Whenever the President of Taiwan or any other high-level official of Taiwan shall apply to visit the United States for the purposes of discussions with United States Federal or State government officials concerning—

(1) trade or business with Taiwan that will reduce the United States-Taiwan trade deficit;

(2) prevention of nuclear proliferation;

(3) threats to the national security of the United States;

(4) the protection of the global environment;

(5) the protection of endangered species; or

(6) regional humanitarian disasters. [sic]

The [sic] official shall be admitted to the United States, unless the official is otherwise excludable under the immigration laws of the United States.

SEC. 222. EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) **EXPANSION OF DEFINITION.**—[Omitted; amended section 101(a)(43) of the INA in its entirety.]

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to convictions entered on or after the date of enactment of this Act.

SEC. 223. SUMMARY DEPORTATION.

(a) **EXPEDITED PROCEDURES.**—[Omitted; amended subsections (b)(4)(D) and (b)(4)(E) of section 242A of the INA.]

(b) **TECHNICAL CORRECTION.**—[Omitted; amended § 106(d)(1)(D) of the INA.]

SEC. 224. JUDICIAL DEPORTATION.

(a) **JUDICIAL DEPORTATION.**—[Omitted; added subsection (d) to section 242A.]

(b) **TECHNICAL AMENDMENT.**—[Omitted; added exception to the ninth sentence of § 242(b) of the INA.]

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. 225. CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.

No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)) shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

III. REFUGEE-RELATED PROVISIONS

A. MIGRATION AND REFUGEE ASSISTANCE ACT OF 1962

(Public Law 87-510, June 28, 1962; 76 Stat. 121, as amended)

That this Act may be cited as the "Migration and Refugee Assistance Act of 1962".

SEC. 2. [22 U.S.C. 2601] (a) The President is hereby authorized to continue membership for the United States in the International Organization for Migration in accordance with its constitution approved in Venice, Italy, on October 19, 1953, as amended in Geneva, Switzerland, on May 20, 1987. For the purpose of assisting in the movement of refugees and migrants and to enhance the economic progress of the developing countries by providing for a coordinated supply of selected manpower, there are hereby authorized to be appropriated such amounts as may be necessary from time to time for the payment by the United States of its contributions to the Organization and all necessary salaries and expenses incident to United States participation in the Organization.

(b)* There are hereby authorized to be appropriated such amounts as may be necessary from time to time—

(1) for contributions to the activities of the United Nations High Commissioner for Refugees for assistance to refugees under his mandate or persons on behalf of whom he is exercising his good offices, and for contributions to the International Organization for Migration, the International Committee of the Red Cross; and to other relevant international organizations; and

(2) for assistance to or on behalf of refugees who are outside the United States designated by the President (by class, group, or designation of their respective countries of origin or areas of residence) when the President determines that such assistance will contribute to the foreign policy interests of the United States.

(c)(1) Whenever the President determines it to be important to the national interest he is authorized to furnish on such terms and conditions as he may determine assistance under this Act for the purpose of meeting unexpected urgent refugee and migration needs.

* Paragraphs (1) through (6) of subsection (b) provided, before enactment of the Refugee Act of 1980, as follows:

(1) for contributions to the activities of the United Nations High Commissioner for Refugees for assistance to refugees under his mandate or in behalf of whom he is exercising his good offices,

(2) for assistance to or in behalf of refugees designated by the President (by class, group, or designation of their respective countries of origin or areas of residence) when the President determines that such assistance will contribute to the defense, or to the security, or to the foreign policy interests of the United States;

(3) for assistance to or in behalf of refugees in the United States whenever the President shall determine that such assistance would be in the interest of the United States: *Provided*, That the term "refugees" as herein used means aliens who (A) because of persecution or fear of persecution on account of race, religion, or political opinion, fled from a nation or area of the Western Hemisphere; (B) cannot return thereto because of fear of persecution on account of race, religion, or political opinion; and (C) are in urgent need of assistance for the essentials of life;

(4) for assistance to State or local public agencies providing services for substantial numbers of individuals who meet the requirements of subparagraph (3) (other than clause (C) thereof) for (A) health services and educational services to such individuals, and (B) special training for employment and services related thereto;

(5) for transportation to, and resettlement in, other areas of the United States of individuals who meet the requirements of subparagraph (3) (other than clause (C) thereof) and who, having regard for their income and other resources, need assistance in obtaining such services; and

(6) for establishment and maintenance of projects for employment or refresher professional training of individuals who meet the requirements of subparagraph (3) (other than clause (C) thereof) and, who, having regard for their income and resources, need such employment or need assistance in obtaining such retraining.

(2) There is established a United States Emergency Refugee and Migration Assistance Fund to carry out the purposes of this section. There is authorized to be appropriated to the President from time to time such amounts as may be necessary for the fund to carry out the purposes of this section, except that no amount of funds may be appropriated which, when added to amounts previously appropriated but not yet obligated, would cause such amounts to exceed \$100,000,000. Amounts appropriated hereunder shall remain available until expended.

(3) Whenever the President requests appropriations pursuant to this authorization he shall justify such requests to the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives, as well as to the Committees on Appropriations.

(d) The President shall keep the appropriate committees of Congress currently informed of the use of funds and the exercise of functions authorized in this Act.

(e) Unexpended balances of funds made available under authority of the Mutual Security Act of 1954, as amended, and of the Foreign Assistance Act of 1961, as amended, and allocated or transferred for the purposes of sections 405(a), 405(c), 405(d) and 451(c) of the Mutual Security Act of 1954, as amended, are hereby authorized to be continued available for the purposes of this section and may be consolidated with appropriations authorized by this section.

(f) The President may furnish assistance and make contributions under this Act notwithstanding any provision of law which restricts assistance to foreign countries.

SEC. 3. [22 U.S.C. 2602] (a) In carrying out the purpose of this Act, the President is authorized—

(1) to make loans, advances, and grants to, make and perform agreements and contracts with, or enter into other transactions with, any individual, corporation, or other body of persons, government or government agency, whether within or without the United States, and international and intergovernmental organizations;

(2) to accept and use money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purposes.

(b) Whenever the President determines it to be in furtherance of the purposes of this Act, the functions authorized under this Act may be performed without regard to such provisions of law (other than the Renegotiation Act of 1951 (65 Stat. 7)), as amended, regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the President may specify.

SEC. 4. [22 U.S.C. 2603] (a)(1) The President is authorized to designate the head of any department or agency of the United States Government, or any official thereof who is required to be appointed by the President by and with the advice and consent of the Senate, to perform any functions conferred upon the President by this Act. If the President shall so specify, any individual so designated under this subsection is authorized to redelegate to any of his subordinates any functions authorized to be performed by him under this subsection, except the function of exercising the waiver authority specified in section 3(b) of this Act.

(2) Section 104(b) of the Immigration and Nationality Act (8 U.S.C. 1104(b)), is amended by inserting after the first sentence the following: "He shall be appointed by the President by and with the advice and consent of the Senate."

(b) [22 U.S.C. 2604] The President may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out the purposes of this Act. Such funds shall be available for obligation and expenditure for the purposes for which authorized in accordance with authority granted in this Act or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred. Funds allocated or transferred pursuant to this subsection to any such agency may be established in separate appropriation accounts on the books of the Treasury.

SEC. 5. [22 U.S.C. 2605] (a) Funds made available for the purposes of this Act shall be available for—

(1) compensation, allowances, and travel of personnel, including members of the Foreign Service whose services are utilized primarily for the purpose of this Act, and without regard to the provisions of any other law, for printing and binding, and for expenditures outside the United States for the procurement of supplies and services and for other administrative and operating purposes (other than compensation of personnel) without regard to such laws and regulations governing the obligation and expenditure of Government funds as may be necessary to accomplish the purposes of this Act;

(2) employment or assignment of members of the Foreign Service serving under limited appointments for the duration of operations under this Act;

(3) exchange of funds without regard to section 3651 of the Revised Statutes (31 U.S.C. 543), and loss by exchanges;

(4) expenses authorized by the Foreign Service Act of 1980, not otherwise provided for;

(5) expenses authorized by the Act of August 1, 1956 (70 Stat. 890-892), as amended;

(6) contracting for personal services abroad, and individuals employed by contract to perform such services shall not be considered to be employees of the United States for purposes of any law administered by the Office of Personnel Management, except that the Secretary of State may determine the applicability to such individuals of section 2(f) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(f)) and of any other law administered by the Secretary concerning the employment of such individuals abroad; and

(7) all other expenses determined by the President to be necessary to carry out the purposes of this Act.

(b) Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements and other actions issued, undertaken, or entered into under authority of any provision of law repealed by this Act shall continue in full force and effect until modified, revoked, or superseded under the authority of this Act.

(c) Personnel funded pursuant to this section are authorized to provide administrative assistance to personnel assigned to the bureau charged with carrying out this Act.

SEC. 6. [Amendments to other Acts, executed and text omitted]

SEC. 7. [22 U.S.C. 2601, note] Until the enactment of legislation appropriating funds for activities under this Act, such activities may be conducted with funds made available under section 451(a) of the Foreign Assistance Act of 1961, as amended.

SEC. 8. AUDITS OF U.S. FUNDS RECEIVED BY THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES.

(a) PROGRAM AUDITS¹.—Funds may not be made available to the United Nations High Commissioner for Refugees (UNHCR) under this or any other Act unless provision is made for—

(1) annual program audits to determine the use of UNHCR funds, including the use of such funds by implementing partners; and

(2) such audits are made available through the Department of State for inspection by the Comptroller General of the United States.

(b) INSPECTION AND REPORT BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall inspect each such audit and submit a report of that inspection to the Congress.

(c) FIRST PROGRAM AUDIT.—The first program audit pursuant to subsection (a)(1) shall begin not later than June 1, 1986.

B. PROTOCOL RELATING TO THE STATUS OF REFUGEES²

(1968, with reservation)

Done at New York January 31, 1967; accession advised by the Senate of the United States of America subject to certain reservations, October 4, 1968; accession approved by the President of the United States of America, subject to said reservations, October 15, 1968 accession of the United States of America deposited with the Secretary-General of the United Nations, with the said reservations, November 1, 1968; proclaimed by the President of the United States of America November 6, 1968; entered into force with respect to the United States of America, November 1, 1968.

PROTOCOL RELATING TO THE STATUS OF REFUGEES

The States Parties to the present Protocol,

¹ Subsection (a) was amended in its entirety by § 701 of P.L. 101-246, February 16, 1990.

² 19 UST 6223; TIAS 6577. For states which are party to the Protocol, see Dept. of State publication *Treaties in Force*. For text of reservation, see end of Protocol.

Considering that the Convention relating to the Status of Refugees done at Geneva on 28 July 1951³ (hereinafter referred to as the Convention) covers only those persons who have become refugees as a result of events occurring before 1 January 1951,

Considering that the new refugees situations have arisen since the Convention was adopted and that the refugees concerned may therefore not fall within the scope of the Convention,

Considering that it is desirable that equal status should be enjoyed by all refugees covered by the definition in the Convention irrespective of the dateline 1 January 1951,

Have agreed as follows:

ARTICLE I

GENERAL PROVISION

1. The States Parties to the present Protocol undertake to apply articles 2 to 34 inclusive to the Convention to refugees as herein after defined.

2. For the purpose of the present Protocol, the term "refugees" shall, except as regards the application of paragraph 3 of this article, mean any person within the definition of article 1 of the Convention as if the words "As a result of events occurring before 1 January 1951 and * * *" and the words "* * * as a result of such events", in article 1A(2) were omitted.

3. The present Protocol shall be applied by the States Parties hereto without any geographic limitation, save that existing declarations made by States already Parties to the Convention in accordance with article 1B(1)(a) of the Convention, shall, unless extended under article 1B(2) thereof, apply also under the present Protocol.

ARTICLE II

CO-OPERATION OF THE NATIONAL AUTHORITIES WITH THE UNITED NATIONS

1. The States Parties to the present Protocol undertake to co-operate with the Office of the United Nations High Commission for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of the present Protocol.

2. In order to enable the Office of the High Commissioner, or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the States Parties to the present Protocol undertake to provide them with the information and statistical data requested, in the appropriate form, concerning:

- (a) The condition of refugees;
- (b) The implementation of the present Protocol;
- (c) Laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

ARTICLE III

INFORMATION ON NATIONAL LEGISLATION

The States Parties to the present Protocol shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of the present Protocol.

ARTICLE IV

SETTLEMENT OF DISPUTES

Any dispute between States Parties to the present Protocol which related to its interpretation or application and which cannot be settled by other means shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

³ See Convention in following Appendix.

ARTICLE V

ACCESSION

The present Protocol shall be open for accession on behalf of all States Parties to the Convention and of any other State Member of the United Nations or member of any of the specialized agencies or to which an invitation to accede may have been addressed by the General Assembly of the United Nations. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

ARTICLE VI

FEDERAL CLAUSE

In the case of Federal or non-unitary State, the following provisions shall apply:

(a) With respect to those articles of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of States Parties which are not Federal States;

(b) With respect to those articles of the Convention to be applied in accordance with article I, paragraph 1, of the present protocol that come within the legislative jurisdiction of constituent States, provinces or cantons which are not under the constitutional system of the federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment;

(c) A Federal State Party to the present Protocol shall, at the request or any other State Party hereto transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol, showing the extent to which effect has been given to that provision by legislative or other action.

ARTICLE VII

RESERVATIONS AND DECLARATIONS

1. At the time of accession, any State may make reservations in respect of article IV of the present Protocol and in respect of the application in accordance with article I of the present Protocol of any provision of the Convention other than those contained in articles 1, 3, 4, 16(1) and 33 thereof, provided that in the case of a State Party to the Convention reservations made under this article shall not extend to refugees in respect of whom the Convention applies.

2. Reservations made by States Parties to the Convention in accordance with article 42 thereof shall, unless withdrawn, be applicable in relation to their obligations under the present Protocol.

3. Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw such reservation by a communications to that effect addressed to the Secretary-General of the United Nations.

4. Declaration made under article 40, paragraphs 1 and 2, of the Convention by a State Party thereto which accedes to the present Protocol shall be deemed to apply in respect of the present Protocol, unless upon accession a notification to the contrary is addressed by the State Party concerned to the Secretary-General of the United Nations. The provisions of article 40, paragraphs 2 and 3, and of article 44, paragraph 3, of the Convention shall be deemed to apply *mutatis mutandis* to the present Protocol.

ARTICLE VIII

ENTRY INTO FORCE

1. The present Protocol shall come into force on the day of deposit of the sixth instrument of accession.

2. For each State acceding to the Protocol after the deposit of the sixth instrument of accession, the Protocol shall come into force on the date of deposit by such State of its instrument of accession.

ARTICLE IX

DENUNCIATION

1. Any State Party hereto may denounce this Protocol at any time by a notification addressed to the Secretary-General of the United Nations.
2. Such denunciation shall take effect for the State Party concerned one year from the date on which it is received by the Secretary-General of the United Nations.

ARTICLE X

NOTIFICATIONS BY THE SECRETARY-GENERAL OF THE UNITED NATIONS

The Secretary-General of the United Nations shall inform the States referred to an article V above of the date of entry into force, accessions, reservations and withdrawals of reservations to and denunciations of the present Protocol, and of declarations and notifications relating hereto.

ARTICLE XI

DEPOSIT IN THE ARCHIVES OF THE SECRETARIAT OF THE UNITED NATIONS

A copy of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, signed by the President of the General Assembly and by the Secretary-General of the United Nations, shall be deposited in the archives of the Secretariat of the United Nations. The Secretary-General will transmit certified copies thereof to all States Members of the United Nations and to the other States referred to in article V above.

RESERVATION AS STATED IN PROCLAMATION

WHEREAS the Senate of the United States of America by its resolution of October 4, 1968, two-thirds of the Senators present concurring therein, did advise and consent to accession to the Protocol with the following reservations:

"The United States of America construes Article 29 of the Convention as applying only to refugees who are resident in the United States and reserves the right to tax refugees who are not residents of the United States in accordance with its general rules relating to nonresident aliens.

"The United States of America accepts the obligation of paragraph 1(b) of Article 24 of the Convention except insofar as that paragraph may conflict in certain instances with any provision of title II (old age, survivors' and disability insurance) or title XVIII (hospital and medical insurance for the aged) of the Social Security Act. As to any such provision, the United States will accord to refugees lawfully staying in its territory treatment no less favorable than is accorded aliens generally in the same circumstances."

C. GENEVA CONVENTION RELATING TO THE STATUS OF REFUGEES ¹

(Done at Geneva, July 28, 1951)

Preamble

THE HIGH CONTRACTING PARTIES

CONSIDERING that the Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

¹ 19 UST 6260; TIAS 6577. The United States is *not* a party to this Convention. However, the U.S. is a party to the Protocol Relating to the Status of Refugees (page 297 et seq.) which incorporates Articles 2 through 34 of this Convention.

CONSIDERING that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavored to assure refugees the widest possible exercise of these fundamental rights and freedoms,

CONSIDERING that it is desirable to revise and consolidate previous international agreements relating to the status of refugees and to extend the scope of and the protection accorded by such instruments by means of a new agreement,

CONSIDERING that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international co-operation,

EXPRESSING the wish that all States, recognizing the social and humanitarian nature of the problem of refugees, will do everything within their power to prevent this problem from becoming a cause of tension between States,

NOTING that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of States with the High Commissioner.

HAVE AGREED as follows:

CHAPTER I

GENERAL PROVISIONS

ARTICLE 1

Definition of the Term "Refugee"

A. For the purposes of the present Convention, the term "refugee" shall apply to any person who:

(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization;

Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfill the conditions of paragraph 2 of this section;

(2) As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, in unwilling to return to it.

In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

B. (1) For the purposes of this Convention, the words "events occurring before 1 January 1951" in article 1, section A, shall be understood to mean either

(a) "events occurring in Europe before 1 January 1951"; or

(b) "events occurring in Europe or elsewhere before 1 January 1951";

and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Convention.

(2) Any Contracting State which has adopted alternative (a) may at any time extend its obligations by adopting alternative (b) by means of a notification addressed to the Secretary-General of the United Nations.

C. This Convention shall cease to apply to any person falling under the terms of section A if:

(1) He has voluntarily re-availed himself of the protection of the country of his nationality; or

(2) Having lost his nationality, he has voluntarily reacquired it; or

(3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

(4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(5) He can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;

Provided that this paragraph shall not apply to a refugee falling under section A(1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;

(6) Being a person who has no nationality he is, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence;

Provided that this paragraph shall not apply to a refugee falling under section A(1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.

D. This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this Convention.

E. This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

(b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;

(c) he has been guilty of acts contrary to the purposes and principles of the United Nations.

ARTICLE 2

General Obligations

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

ARTICLE 3

Non-discrimination

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

ARTICLE 4

Religion

The Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practice their religion and freedom as regards the religious education of their children.

ARTICLE 5

Rights Granted Apart From This Convention

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.

ARTICLE 6

The Term "in the Same Circumstances"

For the purpose of this Convention, the term "in the same circumstances" implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfill for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.

ARTICLE 7

Exemption from Reciprocity

1. Except where this Convention contains more favourable provisions, a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally.

2. After a period of three year's residence, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States.

3. Each Contracting State shall continue to accord to refugees the rights and benefits to which they were already entitled, in the absence of reciprocity, at the date of entry into force of this Convention for that State.

4. The Contracting States shall consider favourably the possibility of according to refugees, in the absence of reciprocity, rights and benefits beyond those to which they are entitled according to paragraphs 2 and 3, and to extending exemption from reciprocity to refugees who do not fulfill the conditions provided for in paragraphs 2 and 3.

5. The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in articles 13, 18, 19, 21 and 22 of this Convention and to rights and benefits for which this Convention does not provide.

ARTICLE 8

Exemption from Exceptional Measures

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality. Contracting States which, under their legislation, are prevented from applying the general principle expressed in this article, shall, in appropriate cases, grant exemptions in favour of such refugees.

ARTICLE 9

Provisional Measures

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security.

ARTICLE 10

Continuity of Residence

1. Where a refugee has been forcibly displaced during the Second World War and removed to the territory of a Contracting State, and is resident there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory.

2. Where a refugee has been forcibly displaced during the Second World War from the territory of a Contracting State and has, prior to the date of entry into force of this Convention, returned there for the purpose of taking up residence, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

ARTICLE 11

Refugee Seamen

In the case of refugees regularly serving as crew members on board a ship flying the flag of a Contracting State, that State shall give sympathetic consideration to their establishment on its territory and the issue of travel documents to them or their temporary admission to its territory particularly with a view to facilitating their establishment in another country.

CHAPTER II

JURIDICAL STATUS

ARTICLE 12

Personal Status

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.

2. Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognized by the law of that State had he not become a refugee.

ARTICLE 13

Movable and Immovable Property

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

ARTICLE 14

Artistic Rights and Industrial Property

In respect to the protection of industrial property, such as inventions, designs or models, trade marks, trade names, and of rights in literary, artistic and scientific works, a refugee shall be accorded in the country in which he has his habitual residence the same protection as is accorded to nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.

ARTICLE 15

Right of Association

As regards non-political and non-profitmaking associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

ARTICLE 16

Access to Courts

1. A refugee shall have free access to the courts of law on the territory of all Contracting States.

2. A refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the Courts, including legal assistance and exemption from *cautio judicatum solvi*.

3. A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence.

CHAPTER III

GAINFUL EMPLOYMENT

ARTICLE 17

Wage-Earning Employment

1. The Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.

2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfills one of the following conditions:

(a) He has completed three years' residence in the country.

(b) He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefit of this provision if he has abandoned his spouse;

(c) He has one or more children possessing the nationality of the country of residence.

3. The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

ARTICLE 18

Self-employment

The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

ARTICLE 19

Liberal Professions

1. Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practising a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

2. The Contracting States shall use their best endeavours consistently with their laws and constitutions to secure the settlement of such refugees in the territories, other than the metropolitan territory, for whose international relations they are responsible.

CHAPTER IV

WELFARE

ARTICLE 20

Rationing

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals.

ARTICLE 21

Housing

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

ARTICLE 22

Public Education

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.

2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

ARTICLE 23

Public Relief

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

ARTICLE 24

Labour Legislation and Social Security

1. The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect to the following matters:

(a) In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities: remuneration, including family allowances where these form part of remunerations, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women's work and the work of young persons and the enjoyment of the benefits of collective bargaining;

(b) Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations;

(i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;

(ii) National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfill the contribution conditions prescribed for the award of a normal pension.

2. The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.

3. The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.

4. The Contracting States will give sympathetic consideration to extending to the refugees so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and noncontracting States.

CHAPTER V

ADMINISTRATIVE MEASURES

ARTICLE 25

Administrative Assistance

1. When the exercise of a right by a refugee would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.

2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to aliens by or through their national authorities.

3. Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be given credence in the absence of proof to the contrary.

4. Subject to such exceptional treatment as may be granted to indigent persons, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.

5. The provisions of this article shall be without prejudice to articles 27 and 28.

ARTICLE 26

Freedom of Movement

Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.

ARTICLE 27

Identity Papers

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document.

ARTICLE 28

Travel Documents

1. The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence.

2. Travel documents issued to refugees under previous international agreements by parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

ARTICLE 29

Fiscal Charges

1. The Contracting States shall not impose upon refugees duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.

2. Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.

ARTICLE 30

Transfer of Assets

1. A Contracting State shall, in conformity with its laws and regulations, permit refugees to transfer assets which they have brought into its territory, to another country where they have been admitted for the purposes of resettlement.

2. A Contracting State shall give sympathetic consideration to the application of refugees for permission to transfer assets wherever they may be and which are necessary for their resettlement in another country to which they have been admitted.

ARTICLE 31

Refugees Unlawfully in the Country of Refuge

1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

2. The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

ARTICLE 32

Expulsion

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

ARTICLE 33

Prohibition of Expulsion or Return ("Refoulement")

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

ARTICLE 34

Naturalization

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

CHAPTER VI

EXECUTORY AND TRANSITORY PROVISIONS

ARTICLE 35

Co-operation of the National Authorities with the United Nations

1. The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.

2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning:

- (a) the condition of refugees,
- (b) the implementation of this Convention, and
- (c) laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

ARTICLE 36

Information on National Legislation

The Contracting States shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of this Convention.

ARTICLE 37

Relation to Previous Convention

Without prejudice to article 28, paragraph 2, of this Convention, this Convention replaces, as between parties to it, the Arrangements of 5 July 1922, 31 May 1924, 12 May 1926, 30 June 1928 and 30 July 1935, the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 and the Agreement of 15 October 1946.

CHAPTER VII

FINAL CLAUSES

ARTICLE 38

Settlement of Disputes

Any dispute between parties to this Convention relating to its interpretation or application, which cannot be settled by other means, shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

ARTICLE 39

Signature, Ratification and Accession

1. This Convention shall be opened for signature at Geneva on 28 July 1951 and shall thereafter be deposited with the Secretary-General of the United Nations. It shall be open for signature at the European Office of the United Nations from 28 July to 31 August 1951 and shall be re-opened for signature at the Headquarters of the United Nations from 17 September 1951 to December 1952.

2. This Convention shall be open for signature on behalf of all States Members of the United Nations, and also on behalf of any other State invited to attend the Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons or to which an invitation to sign will have been addressed by the General Assembly. It shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open from 28 July 1951 for accession by the States referred to in paragraph 2 of this article. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

ARTICLE 40

Territorial Application Clause

1. Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect when the Convention enters into force for the State concerned.

2. At any time thereafter any such extension shall be made by notification addressed to the Secretary-General of the United Nations and shall take effect as from the ninetieth day after the day of receipt by the Secretary-General of the United Nations of this notification, or as from the date of entry into force of the Convention for the State concerned, whichever is the later.

3. With respect to those territories to which this Convention is not extended at the time of signature, ratification or accession, each State concerned shall consider the possibility of taking the necessary steps in order to extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the Government of such territories.

ARTICLE 41

Federal Clause

In the case of a Federal or non-unitary State, the following provisions shall apply:

(a) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of Parties which are not Federal States;

(b) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent States, provinces or cantons which are not, under the constitutional system of the federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of states, provinces or cantons at the earliest possible moment.

(c) A Federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has been given to that provision by legislative or other action.

ARTICLE 42

Reservations

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1, 3, 4, 16(1), 33, 36–46 inclusive.

2. Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

ARTICLE 43

Entry into Force

1. This Convention shall come into force on the ninetieth day following the day of deposit of the sixth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the sixth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day following the date of deposit by such State of its instrument of ratification or accession.

ARTICLE 44

Denunciation

1. Any Contracting State may denounce this Convention at any time by a notification addressed to the Secretary-General of the United Nations.

2. Such denunciation shall take effect for the Contracting State concerned one year from the date upon which it is received by the Secretary-General of the United Nations.

3. Any State which has made a declaration or notification under article 40 may, at any time thereafter, by a notification to the Secretary-General of the United Nations, declare that the Convention shall cease to extend to such territory one year after the date of receipt of the notification by the Secretary-General.

ARTICLE 45

Revision

1. Any Contracting State may request revision of this Convention at any time by a notification addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall recommend the steps, if any, to be taken in respect of such request.

ARTICLE 46

Notifications by the Secretary-General of the United Nations

The Secretary-General of the United Nations shall inform all Members of the United Nations and non-member States referred to in article 39:

- (a) Of declaration and notifications in accordance with section B of article 1;
- (b) Of signature, ratifications and accessions in accordance with article 39;
- (c) Of declarations and notifications in accordance with article 40;
- (d) Of reservations and withdrawals in accordance with article 42;
- (e) Of the date on which this Convention will come into force in accordance with article 43;
- (f) Of denunciations and notifications in accordance with article 44;
- (g) Of requests for revision in accordance with article 45.

IN FAITH WHEREOF the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments,

DONE at Geneva, this twenty-eight day of July, one thousand nine hundred and fifty-one, in a single copy, of which the English and French texts are equally authentic and which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all Members of the United Nations and to the non-member States referred to in article 39.

SCHEDULE

Paragraph 1

1. The travel document referred to in article 28 of this convention shall be similar to the specimen annexed hereto.

2. The document shall be made out in at least two languages, one of which shall be English or French.

Paragraph 2

Subject to the regulations obtaining in the country of issue, children may be included in the travel document of a parent or, in exceptional circumstances, of another adult refugee.

Paragraph 3

The fees charged for issue of the document shall not exceed the lowest scale of charges for national passports.

Paragraph 4

Save in special or exceptional cases, the document shall be made valid for the largest possible number of countries.

Paragraph 5

The document shall have a validity of either one or two years, at the discretion of the issuing authority.

Paragraph 6

1. The renewal or extension of the validity of the document is a matter for the authority which issued it, so long as the holder has not established lawful residence in another territory and resides lawfully in the territory of the said authority. The issue of a new document is, under the same conditions, a matter for the authority which issued the former document.

2. Diplomatic or consular authorities, specially authorized for the purpose, shall be empowered to extend, for a period not exceeding six months, the validity of travel documents issued by their Governments.

3. The Contracting States shall give sympathetic consideration to renewing or extending the validity of travel documents or issuing new documents to refugees no longer lawfully resident in their territory who are unable to obtain a travel document from the country of their lawful residence.

Paragraph 7

The Contracting States shall recognize the validity of the documents issued in accordance with the provisions of article 28 of this Convention.

Paragraph 8

The competent authorities of the country to which the refugee desires to proceed shall, if they are prepared to admit him and if a visa is required, affix a visa on the document of which he is the holder.

Paragraph 9

1. The Contracting States undertake to issue transit visas to refugees who have obtained visas for a territory of final destination.

2. The issue of such visas may be refused on grounds which would justify refusal of a visa to any alien.

Paragraph 10

The fees for the issue of exit, entry or transit visas shall not exceed the lowest scale of charges for visas on foreign passports.

Paragraph 11

When a refugee has lawfully taken up residence in the territory of another Contracting State, the responsibility for the issue of a new document, under the terms and conditions of article 28, shall be that of the competent authority of that territory, to which the refugee shall be entitled to apply.

Paragraph 12

The authority issuing a new document shall withdraw the old document and shall return it to the country of issue if it is stated in the document that it should be so returned; otherwise it shall withdraw and cancel the document.

Paragraph 13

1. Each Contracting State undertakes that the holder of a travel document issued by it in accordance with article 28 of this Convention shall be readmitted to its territory at any time during the period of its validity.

2. Subject to the provisions of the preceding sub-paragraph, a Contracting State may require the holder of the document to comply with such formalities as may be prescribed in regard to exit from or return to its territory.

3. The Contracting States reserve the right, in exceptional cases, or in cases where the refugee's stay is authorized for a specific period, when issuing the docu-

ment, to limit the period during which the refugee may return to a period of not less than three months.

Paragraph 14

Subject only to the terms of paragraph 13, the provisions of this Schedule in no way affect the laws and regulations governing the conditions of admission to, transit through, residence and establishment in, and departure from, the territories of the Contracting States.

Paragraph 15

Neither the issue of the document nor the entries made thereon determine or affect the status of the holder, particularly as regards nationality.

Paragraph 16

The issue of the document does not in any way entitle the holder to the protection of the diplomatic or consular authorities of the country of issue, and does not confer on these authorities a right of protection.

D. REFUGEE ACT OF 1980

(Public Law 96-212, March 17, 1980, 94 Stat. 109)

That this Act may be cited as the "Refugee Act of 1980".

TITLE I—PURPOSE

SEC. 101. (a) The Congress declares that it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands, including, where appropriate, humanitarian assistance for their care and maintenance in asylum areas, efforts to promote opportunities for resettlement or voluntary repatriation, aid for necessary transportation and processing, admission to this country of refugees of special humanitarian concern to the United States, and transitional assistance to refugees in the United States. The Congress further declares that it is the policy of the United States to encourage all nations to provide assistance and resettlement opportunities to refugees to the fullest extent possible. The objectives of this Act are to provide a permanent and systematic procedure for the admission to this country of refugees of special humanitarian concern to the United States, and to provide comprehensive and uniform provisions for the effective resettlement and absorption of those refugees who are admitted.

TITLE II—ADMISSION OF REFUGEES

SEC. 201. (a) [Omitted; added paragraph (42) to § 101(a).]

(b) [Omitted; Added §§ 207, 208 and 209.]

(c) [Omitted; conforming amendments to table of contents.]

SEC. 202. [Omitted; amended § 211, by adding subsection (c).]

SEC. 203. (a) [Omitted; amended § 201(a).]

(b) [Omitted; miscellaneous amendments to § 202; including striking paragraph (7) of subsection (e).]

(c) [Omitted; miscellaneous amendments to § 203; including striking subsections (f), (g), and (h); for previous text of subsections (g) and (h), see Appendix IV.C.]

(d) [Omitted; conforming amendments to §§ 212(a)(14), 212(a)(32), and 244(d).]

(e) [Omitted; amended subsection (h) of § 243.]

(f) [Omitted; added subparagraph (B) to § 212(d)(5).]

(g) [Omitted; substituted "September 30, 1980" for "April 1, 1980" in § 5 of Pub. L. 95-412.]

(h) Any reference in any law (other than the Immigration and Nationality Act or this Act) in effect on April 1, 1980, to section 203(a)(7) of the Immigration and Nationality Act shall be deemed to be a reference to such section as in effect before such date and to sections 207 and 208 of the Immigration and Nationality Act.

(i) [Omitted; reduced from 2 years to 1 year time period in § 203(g), § 101(a)(3) of Pub. L. 95-145, and § 1 of Pub. L. 89-732.]

SEC. 204. (a) Except as provided in subsections (b) and (c), this title and the amendments made by this title shall take effect on the date of the enactment of this Act, and shall apply to fiscal years beginning with the fiscal year beginning October 1, 1979.

(b)(1)(A) Section 207(c) of the Immigration and Nationality Act (as added by section 201(b) of this Act) and the amendments made by subsections (b), (c), and (d) of section 203 of this Act shall take effect on April 1, 1980.

(B) The amendments made by section 203(f) shall apply to aliens paroled into the United States on or after the sixtieth day after the date of the enactment of this Act.

(C) The amendments made by section 203(i) shall take effect immediately before April 1, 1980.

(2) Notwithstanding sections 207(a) and 209(b) of the Immigration and Nationality Act (as added by section 201(b) of this Act), the fifty thousand and five thousand numerical limitations specified in such respective sections shall, for fiscal year 1980, be equal to 25,000 and 2,500, respectively.

(3) Notwithstanding any other provisions of law, for fiscal year 1980—

(A) the fiscal year numerical limitation specified in section 201(a) of the Immigration and Nationality Act shall be equal to 280,000, and

(B) for the purpose of determining the number of immigrant visas and adjustments of status which may be made available under sections 203(a)(2) and 202(c)(2) of such Act, the granting of a conditional entry or adjustment of status under section 203(a)(7) or 202(e)(7) of such Act after September 30, 1979, and before April 1, 1980, shall be considered to be the granting of an immigrant visa under section 203(a)(2) or 202(e)(2), respectively, of such Act during such period.

(c)(1) The repeal of subsection (g) and (h) of section 203 of the Immigration and Nationality Act, made by section 203(c)(8) of this title, shall not apply with respect to any individual who before April 1, 1980, was granted a conditional entry under section 203(a)(7) of the Immigration and Nationality Act (and under section 202(e)(7) of such Act, if applicable), as in effect immediately before such date, and it shall not apply to any alien paroled into the United States before April 1, 1980, who is eligible for the benefits of section 5 of Public Law 95-412.

(2) An alien who, before April 1, 1980, established a date of registration at an immigration office in a foreign country on the basis of entitlement to a conditional entrant status under section 203(a)(7) of the Immigration and Nationality Act (as in effect before such date), shall be deemed to be entitled to refugee status under section 207 of such Act (as added by section 201(b) of this title) and shall be accorded the date of registration previously established by that alien. Nothing in this paragraph shall be construed to preclude the acquisition by such an alien of a preference status under section 203(a) of such Act.

(3) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not be applicable to any alien who has entered the United States before April 1, 1980, pursuant to section 203(a)(7) of such Act or who has been paroled as a refugee into the United States under section 212(d)(5) of such Act, and who is seeking adjustment of status, and the Attorney General may waive any other provisions of section 212(a) of such Act (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as related to trafficking in narcotics with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(d)(1) Notwithstanding section 207(a) of the Immigration and Nationality Act (as added by section 201(b) of this title), the President may make the determination described in the first sentence of such section not later than forty-five days after the date of the enactment of this Act for fiscal year 1980.

(2) The Attorney General shall establish the asylum procedure referred to in section 208(a) of the Immigration and Nationality Act (as added by section 201(b) of this title) not later than June 1, 1980.

(e) Any reference in this Act or in chapter 2 of title IV of the Immigration and Nationality Act to the Secretary of Education or the Secretary of Health and Human Services or to the Department of Health and Human Services shall be deemed, before the effective date of the Department of Education Organization Act, to be a reference to the Secretary of Health, Education, and Welfare or to the Department of Health, Education, and Welfare, respectively.

TITLE III—ASSISTANCE FOR EFFECTIVE RESETTLEMENT OF REFUGEES IN THE UNITED STATES

[Part A was repealed by § 162(m) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (P.L. 103-236, 108 Stat. 409, Apr. 30, 1994).]

SEC. 311. (a) [Omitted; added chapter 2 to title IV.]

SEC. 312. (a) [Omitted; conforming amendments to table of contents.]

(b) [Omitted; miscellaneous amendments to §2 of the Migration and Refugee Assistance Act of 1962.]

(c) [Omitted; repealed the Indochina Migration and Refugee Assistance Act of 1975 (Pub. L. 94-23).]

SEC. 313. (a) Except as otherwise provided in this section, the amendment made by this part shall apply to fiscal years beginning on or after October 1, 1979.

(b) Subject to subsection (c), the limitations contained in sections 412(d)(2)(A) and 412(c)(1) of the Immigration and Nationality Act on the duration of the period for which child welfare services and cash and medical assistance may be provided to particular refugees shall not apply to such services and assistance provided before April 1, 1981.

(c) Notwithstanding section 412(e)(1) of the Immigration and Nationality Act and in lieu of any assistance which may otherwise be provided under such section with respect to Cuban refugees who entered the United States and were receiving assistance under section 2(b) of the Migration and Refugee Assistance Act of 1962 before October 1, 1978, the Director of the Office of Refugee Resettlement is authorized—

(1) to provide reimbursement—

(A) in fiscal year 1980, for 75 percent,

(B) in fiscal year 1981, for 60 percent,

(C) in fiscal year 1982, for 45 percent, and

(D) in fiscal year 1983, for 25 percent,

of the non-Federal costs of providing cash and medical assistance (other than assistance described in paragraph (2)) to such refugees, and

(2) to provide reimbursement in any fiscal year for 100 percent of the non-Federal costs associated with such Cuban refugees with respect to whom supplemental security income payments were being paid as of September 30, 1978, under title XVI of the Social Security Act.

(d) The requirements of section 412(a)(6)(A) of the Immigration and Nationality Act shall apply to assistance furnished under chapter 2 of title IV of such Act after October 1, 1980, or such earlier date as the Director of the Office of Refugee Resettlement may establish.

TITLE IV—SOCIAL SERVICES FOR CERTAIN APPLICANTS FOR ASYLUM

SEC. 401. (a) The Director of the Office of Refugee Resettlement is authorized to use funds appropriated under paragraphs (1) and (2) of section 414(a) of the Immigration and Nationality Act to reimburse State and local public agencies for expenses which those agencies incurred, at any time, in providing aliens described in subsection (c) of this section with social services of the types for which reimbursements were made with respect to refugees under paragraphs (3) through (6) of section 2(b) of the Migration and Refugee Assistance Act of 1962 (as in effect prior to the enactment of this Act) or under any other Federal law.

(b) The Attorney General is authorized to grant to an alien described in subsection (c) of this section permission to engage in employment in the United States and to provide to that alien an "employment authorized" endorsement or other appropriate work permit.

(c) This section applies with respect to any alien in the United States (1) who has applied before November 1, 1979, for asylum in the United States, (2) who has not been granted asylum, and (3) with respect to whom a final, nonappealable, and legally enforceable order of deportation or exclusion has not been entered.

E. REFUGEE EDUCATION ASSISTANCE ACT OF 1980

(Public Law 96-422, October 10, 1980, as amended; 8 U.S.C. 1522 note)

TITLE I—GENERAL PROVISIONS

DEFINITIONS

SEC. 101. As used in this Act—

(1) The terms “elementary school”, “local educational agency”, “secondary school”, “State”, and “State educational agency” have the meanings given such terms under section 14101 of the Elementary and Secondary Education Act of 1965.

(2) The term “elementary or secondary nonpublic schools” means schools which comply with the compulsory education laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

(3) The term “eligible participant”¹ means any alien who—

(A) has been admitted into the United States as a refugee under section 207 of the Immigration and Nationality Act;

(B) has been paroled into the United States as a refugee by the Attorney General pursuant to section 212(d)(5) of such Act;

(C) is an applicant for asylum, or has been granted asylum, in the United States; or

(D) has fled from the alien’s country of origin and has, pursuant to an Executive order of the President, been permitted to enter the United States and remain in the United States indefinitely for humanitarian reasons; but only during the 36-month beginning with the first month in which the alien entered the United States (in the case of an alien described in (A), (B), or (D)) or the month in which the alien applied for asylum (in the case of an alien described in subparagraph (c)).

(4) The term “Secretary” means the Secretary of Education.

AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS

SEC. 102. (a) There are authorized to be appropriated for each of the fiscal years 1981, 1982, and 1983, but only in a lump sum for all programs under this Act, subject to allocation in accordance with subsection (b), such sums as may be necessary to make payments to which State educational agencies are entitled under this Act and payments for administration under section 104.

(b)(1) If the sums appropriated for any fiscal year to make payments to States under this Act are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under titles II through IV for such year, the allocations to State educational agencies under each of such titles shall be ratably reduced by the same percentage to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

(2) In the event that funds become available for making payments under this Act for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

TREATMENT OF CERTAIN JURISDICTIONS

SEC. 103. (a) The jurisdictions to which this section applies are Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b)(1) Each jurisdiction to which this section applies shall be entitled to grants for the purposes set forth in sections 201(a), 302, and 402 in amounts equal to

¹ § 543(a)(2) of Pub. L. 97-35 (95 Stat. 459) provides as follows:

(2) For purposes of the Refugee Education Assistance Act of 1980, an alien who entered the United States on or after November 1, 1979, and is in the United States with the immigration status of a Cuban-Haitian entrant (status pending) shall be considered to be an eligible participant (within the meaning of section 101(3) of such Act), but only during the 36-month period beginning with the first month in which the alien entered the United States as such an entrant or otherwise first acquired such status.

amounts determined by the Secretary in accordance with criteria established by the Secretary, except that the aggregate of the amount to which such jurisdictions are so entitled for any period—

(A) for the purposes set forth in section 201(a), shall not exceed an amount equal to 1 percent of the amount authorized to be appropriated under section 201 for that period;

(B) for the purposes set forth in section 302, shall not exceed an amount equal to 1 percent of the aggregate of the amounts to which all States are entitled under section 301 for that period; and

(C) for the purposes set forth in section 402, shall not exceed an amount equal to 1 percent of the aggregate of the amounts to which all States are entitled under section 401 for that period.

(2) If the aggregate of the amounts determined by the Secretary pursuant to paragraph (1) to be so needed for any period exceeds an amount equal to such 1 percent limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such limitation.

STATE ADMINISTRATIVE COSTS

SEC. 104. The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this Act, except that the total of such payments for any period shall not exceed 2 percent of the amount which that State educational agency receives for that period under this Act.

WITHHOLDING

SEC. 105. Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of any title of this Act, the Secretary shall notify that agency that further payments will not be made to the agency under such title, or in the discretion of the Secretary, that the State educational agency shall not make further payments under such title to specified local educational agencies or other entities (in the case of funds under title IV) whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under such title, or payments by the State educational agency under such title shall be limited to local educational agencies or other entities (in the case of funds under title IV) whose actions did not cause or were not involved in the failure, as the case may be.

CONSULTATION WITH OTHER AGENCIES

SEC. 106. To the extent that may be appropriate to facilitate the determination of the amount of any reductions under sections 201(b)(2), 301(b)(3), and 401(b)(2), the Secretary shall consult with the heads of other agencies providing assistance to eligible participants in order to secure information concerning the disbursement of funds for educational purposes under programs administered by them and provide, wherever feasible, for coordination among those programs and the programs under titles II through IV of this Act.

TITLE II—GENERAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES

STATE ENTITLEMENTS

SEC. 201. (a) The Secretary shall, in accordance with the provisions of this title, make grants to State educational agencies for fiscal year 1981, and for each subsequent fiscal year, for the purposes of assisting local educational agencies of that State in providing basic education for eligible participants enrolled in elementary or secondary public schools. Payments made under this title to any State shall be used in accordance with applications approved under section 202 for public educational services for eligible participants enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of that State.

(b)(1) As soon as possible after the date of the enactment of the Consolidated Refugee Education Assistance Act, the Secretary shall establish a formula (reflecting the availability of the full amount authorized for this title under section 203(b)) by which to determine the amount of the grant which each State educational agency is entitled to receive under this title for any fiscal year. The formula established by

the Secretary shall take into account the number of years that an eligible participant assisted under this title has resided within the United States and the relative costs, by grade level, of providing education for elementary and secondary school children. On the basis of the formula the Secretary shall allocate among the State educational agencies, for each fiscal year, the amounts available to carry out this title, subject to such reductions or adjustments as may be required under paragraph (2) or subsection (c). Funds shall be allocated among State educational agencies pursuant to the formula without regard to variations in educational costs among different geographical areas.

(2) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that (A) such amounts are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds, and (B) such amounts are made available to provide assistance to individuals eligible for services under this title. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

(3) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 201(a) shall be considered to be payments under this title.

(c) Determinations by the Secretary under this title for any period with respect to the number of eligible participants and the amount of the reduction under subsection (b)(2) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

APPLICATIONS

SEC. 202. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the payments under this title will be used for the purposes set forth in section 201(a);

(2) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with the formula established by the Secretary under section 201, subject to any reductions in payments for those local educational agencies identified under paragraph (3) to which funds described by section 201(b)(2) are made available for the same purposes under other Federal laws;

(3) specify the amount of funds described by section 201(b)(2) which are made available under other Federal laws for expenditure within the State for the same purposes as those for which funds are made available under this title and the local educational agencies to which such funds are made available;

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting the application for such funds reasonable notice and opportunity for a hearing; and

(5) provide for making such reports as the Secretary may reasonably require to carry out this title.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

SEC. 203. (a) The Secretary shall pay to each state educational agency having an application approved under section 202 the amount which that State is entitled to receive under this title.

(b) For fiscal year 1981 and for each subsequent fiscal year, there is authorized to be appropriated, in the manner specified under section 102, to make payments under this title an amount equal to the product of —

(1) the total number of eligible participants enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies within all the States (other than the jurisdictions to which section 103 is applicable) during the fiscal year for which the determination is made, multiplied by—
(2) \$400.

TITLE III—SPECIAL IMPACT ASSISTANCE FOR SUBSTANTIAL INCREASES IN ATTENDANCE

STATE ENTITLEMENTS

SEC. 301. (a) The Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for fiscal year 1981, and for each subsequent fiscal year; for the purpose set forth in section 302.

(b)(1) Except as provided in paragraph (3) of this subsection and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this title for any fiscal year shall be equal to the sum of—

(A) the amount equal to the product of (i) the number of eligible participants enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who have been eligible participants less than one year, multiplied by (ii) \$700;

(B) the amount equal to the product of (i) the number of eligible participants enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who have been eligible participants at least one year but not more than two years, multiplied by (ii) \$500; and

(C) the product of (i) the number of eligible participants enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who have been eligible participants more than two years but not more than three years, multiplied by (ii) \$300.

(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of eligible participants who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, or in elementary or secondary nonpublic schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this title, and are receiving supplementary educational services during such period, is equal to—

(A) at least 500; or

(B) at least 5 percent of the total number of students enrolled in such public schools during such fiscal year; whichever number is less. Notwithstanding the provisions of this paragraph, the local educational agencies referred to in paragraph (1) shall include local educational agencies eligible to receive assistance by reason of the last sentence of section 3(b) and section 3(c)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), relating to Federal impact aid, subject to paragraph (5) of this subsection.

(3) The amount of the grant to which a State educational agency otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available under any other Federal law to agencies or other entities for educational, or education-related, services or activities within the State because of the significant concentration of eligible participants.

(4) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 302 shall be considered to be payments under this title.

(5) The amount of the grant to which a State educational agency is entitled as a result of the last sentence of paragraph (2) shall be limited to eligible participants who meet the requirements of section 101(4).

(c) Determinations by the Secretary under this title for any period with respect to the number of Cuban and Haitian refugee children and Indochinese refugee children and the amount of the reduction under subsection (b)(3) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

(d) Whenever the Secretary determines that any amount of a payment made to a State under this title for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such State's payment (as determined under subsection (B)) for such year, but shall remain available until the end of the succeeding fiscal year.

USES OF FUNDS

SEC. 302. (a) Payments made under this title to any State may be used in accordance with applications approved under section 303 for supplementary educational services and costs, as described under subsection (b) of this section, for eligible participants enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of the State described in section 301(b)(2) and in elementary and secondary nonpublic schools of that State within the districts served by such agencies.

(b) Financial assistance provided under this title shall be available to meet the costs of providing eligible participants supplementary educational services, included but not limited to—

(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance, including —

- (A) English language instruction;
- (B) other bilingual educational services; and
- (C) special materials and supplies;

(2) additional basic instructional services which are directly attributable to the presence in the school district of eligible participants, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

(3) special inservice training for personnel who will be providing instruction described in either paragraph (1) or (2) of this subsection.

APPLICATIONS

SEC. 303. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the secretary may reasonably require. Each such application shall—

(1) provide that the educational programs, services and activities for which payments under this title are made will be administered by or under the supervision of the agency;

(2) provide assurances that payments under this title will be used for purposes set forth in section 302;

(3) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with section 301, subject to any reductions in payments for local educational agencies identified under paragraph (5) to take into account the funds described by section 301(b)(3) that are made available for educational, or education-related, services or activities for eligible participants enrolled in elementary or secondary public schools under the jurisdiction of such agencies or elementary or secondary nonpublic schools within the districts served by such agencies;

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title

without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(5) specify (A) the amount of funds described by section 301(b)(3) that are made available under other Federal laws to agencies or other entities for educational or education-related, services or activities within the State because of a significant concentration of eligible participants, and (B) the local educational agencies within whose districts are eligible participants provided services from such funds who are enrolled in elementary or secondary schools under the jurisdiction of such agencies, or in elementary or secondary nonpublic schools served by such agencies;

(6) provide for making such reports as the Secretary may reasonably require to perform his functions under this Act; and

(7) provided assurances—

(A) that to the extent consistent with the number of eligible participants enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

(B) that the control of funds provided under this paragraph and the title to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property; and

(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

PAYMENTS

SEC. 304. (a) The Secretary shall pay to each State educational agency having an application approved under section 303 the amount which that State is entitled to receive under this title.

(b) If a State is prohibited by law from providing public educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 303(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this Act.

TITLE IV—ADULT EDUCATION PROGRAMS

STATE ENTITLEMENTS

SEC. 401. (a) The Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for the fiscal year 1982, and for each subsequent fiscal year for the purposes of providing for the operation of adult education programs as described under section 402 for eligible participants aged 16 or older. Payments made under this title to any State shall be used in accordance with applications approved under section 403.

(b)(1) Except as provided in subsection (c) of this section, the amount of the grant to which a State educational agency is entitled under this Act, for any fiscal year described in subsection (a), shall be equal to the product of—

(A) the number of eligible participants aged 16 or older who are enrolled, during the period for which the determination is made, in programs of instruction referred to in section 402 which are offered within that State, other than any such refugees who are enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies; multiplied by—

(B) \$300.

(2) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that (A) such amounts are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds, and (B) such amounts are made available to provide assistance to individuals eligible for services under this title. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

(3) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 402 shall be considered to be payments under this title.

(c) Determinations by the Secretary under this title for any period with respect to the number of eligible participants and the amount of the reduction under subsection (b)(2) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

USE OF FUNDS

SEC. 402. (a) Funds made available to State educational agencies under this title shall be used by such agencies to provide for programs of adult education and adult basic education to eligible participants aged 16 or older in need of such services who are not enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies. Such programs may be provided directly by the State educational agency, or such agency may make grants, or enter into contracts, with local educational agencies, and other public or private nonprofit agencies, organizations, or institutions to provide for such programs. Funds available under this title may be used for—

(1) programs of instruction of such adult refugees in basic reading and mathematics, in development and enhancement of necessary skills, and for the promotion of literacy among such refugees;

(2) administrative costs of planning and operating such programs of instruction;

(3) educational support services which meet the need of such adult refugees, including guidance and counseling with regard to educational, career, and employment opportunities; and

(4) special projects designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills for individuals, particularly programs authorized under the Comprehensive Employment and Training Act of 1973 or under the Vocational Education Act of 1963.

(b) The State educational agency shall review applications for grants and contracts in a manner consistent with the purposes of paragraphs (12) and (13) of section 306(b) of the Adult Education Act

(c) The State educational agency shall provide for the use of funds made available under this title in such manner that the maximum number of eligible participants aged 16 or older residing within the State receive education under the programs of instruction described under subsection (a).

APPLICATIONS

SEC. 403. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that payments made under this title will be used only for the purposes, and in the manner, set forth in section 402;

(2) specify the amount of reduction required under section 401(b)(2);

(3) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the entity submitting an application for such funds reasonable notice and opportunity for a hearing; and

(4) provide for making periodic reports to the Secretary evaluating the effectiveness of the payments made under this title, and such other reports as the Secretary may reasonably require to perform his functions under this Act.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

TITLE V—OTHER PROVISIONS RELATING TO CUBAN AND HAITIAN ENTRANTS

AUTHORITIES FOR OTHER PROGRAMS AND ACTIVITIES

SEC. 501. (a)(1) The President shall exercise authorities with respect to Cuban and Haitian entrants which are identical to the authorities which are exercised under chapter 2 of title IV of the Immigration and Nationality Act. The authorizations provided in section 414 of that Act shall be available to carry out this section without regard to the dollar limitation contained in section 414(a)(2).

(2) Any reference in chapter III of title I of the Supplemental Appropriations and Rescission Act, 1980, to section 405(c)(2) of the International Security and Development Assistance Act of 1980 or to the International Security Act of 1980 shall be construed to be a reference to paragraph (1) of this subsection.

(b) In addition, the President may, by regulation, provide that benefits granted under any law of the United States (other than the Immigration and Nationality Act) with respect to individuals admitted to the United States under section 207(c) of the Immigration and Nationality Act shall be granted in the same manner and to the same extent with respect to Cuban and Haitian entrants.

(c)(1)(A) Any Federal agency may, under the direction of the President, provide assistance (in the form of materials, supplies, equipment, work, services, facilities, or otherwise) for the processing, care, maintenance, security, transportation, and initial reception and placement in the United States of Cuban and Haitian entrants. Such assistance shall be provided on such terms and conditions as the President may determine.

(B) Funds available to carry out this subsection shall be used to reimburse State and local governments for expenses which they incur for the purposes described in subparagraph (A). Such funds may be used to reimburse Federal agencies for assistance which they provide under subparagraph (A).

(2) The President may direct the head of any Federal agency to detail personnel of that agency, on either a reimbursable or nonreimbursable basis, for temporary duty with any Federal agency directed to provide supervision and management for purposes of this subsection.

(3) The furnishing of assistance or other exercise of functions under this subsection shall not be considered a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

(4) Funds to carry out this subsection may be available until expended.

(d) The authorities provided in this section are applicable to assistance and services provided with respect to Cuban or Haitian entrants at any time after their arrival in the United States, including periods prior to the enactment of this section.

(e) As used in this section, the term "Cuban and Haitian entrants" means—

(1) any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

(2) any other national of Cuba or Haiti—

(A) who—

(i) was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act;

(ii) is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act; or

(iii) has an application for asylum pending with the Immigration and Naturalization Service; and

(B) with respect to whom a final, nonappealable, and legally enforceable order of deportation or exclusion has not been entered.

F. REFUGEE ASSISTANCE EXTENSION ACT OF 1986

(Public Law 99-605, November 6, 1986, 100 Stat. 3449)

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) **SHORT TITLE.**—This Act may be cited as the “Refugee Assistance Extension Act of 1986”.

(b) **AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.**—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act.

SEC. 2. TWO-YEAR EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.

[Omitted; amended section 414.]

SEC. 3. PLACEMENT OF OFFICE OF REFUGEE RESETTLEMENT WITHIN THE OFFICE OF SECRETARY OF HEALTH AND HUMAN SERVICES AND CLARIFYING ROLE OF SECRETARY OF EDUCATION.

(a) **PROVISION OF ASSISTANCE FOR REFUGEE CHILDREN BY SECRETARY OF EDUCATION.**—Section 412(d)(1) (8 U.S.C. 1522(d)(1)) is amended by striking out “Director” and inserting in lieu thereof “Secretary of Education”.

(b) **AUTHORIZING SECRETARY OF EDUCATION AND ATTORNEY GENERAL TO ISSUE REGULATIONS.**—Section 412(a)(9) (8 U.S.C. 1522(a)(9)) is amended by inserting “, the Secretary of Education, the Attorney General,” after “The Secretary”.

SEC. 4. POLICIES FOR PLACEMENT OF REFUGEES AND REGULAR CONSULTATION WITH STATE AND LOCAL GOVERNMENTS IN PLACEMENT PROCESS.

[Omitted; amended section 412(a)(2).]

SEC. 5. RECEPTION AND PLACEMENT GRANTS.

(a) **DIRECT GAO AUDIT OF GRANTS.**—[Omitted; added paragraph (6) to § 412(b).]

(b) **REQUIREMENTS UNDER GRANTS.**—[Omitted; added paragraph (7) to § 412(b).]

(c) **PERFORMANCE CRITERIA FOR GRANTS.**—[Omitted; added paragraph (8) to § 412(b).]

(d) **EFFECTIVE DATES OF AMENDMENTS.**—(1) Section 412(b)(7) (other than subparagraphs (B)(i), (C), and (D)) of the Immigration and Nationality Act, as added by subsection (b)(1) of this section, shall apply to grants and contracts made or renewed after the end of the 30-day period beginning on the date of the enactment of this Act.

(2) Section 412(b)(7)(D) of the Immigration and Nationality Act, as added by subsection (b)(1) of this section, shall apply to grants and contracts made or renewed after the end of the six-month period beginning on the date of the enactment of this Act.

(3) The criteria required under the amendment made by subsection (c) shall be established not later than 60 days after the date of the enactment of this Act.

(e) **REPORT ON RECEPTION AND PLACEMENT GRANTS.**—(1) Within amounts provided in appropriation acts, the United States Coordinator for Refugee Affairs shall provide for a study on the advisability and feasibility of—

(A) using competitive proposals, cost reimbursement contracts, financial incentives based on performance standards, and other means for providing greater efficiency in awarding grants and contracts for initial reception and placement under section 412(b) of the Immigration and Nationality Act,

(B) modifying the eligibility requirements for agency participation under that section,

(C) permitting refugee mutual assistance associations to participate under that section and to apply for such grants and contracts, and

(D) using financial incentives linked to performance standards in awarding social service grants and contracts for services under section 412(c) of the Immigration and Nationality Act.

(2) The Coordinator shall submit the results of the study to Congress not later than six months after the date of the enactment of this Act.

(f) **ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR RECEPTION AND PLACEMENT SERVICES.**—(1) In order to insure that sufficient funds are authorized to be appropriated to provide for reception and placement services in fulfillment of the responsibilities required under section 412(b)(7)(D) of the Immigration and Nationality Act (as added by subsection (b)(1) of this section), there are authorized to be appropriated (in addition to the amounts described in paragraph (2)) for fiscal years 1987 and 1988 any such additional sums as may be necessary to fulfill the responsibilities under that section.

(2) The amounts described in this paragraph are—

(A) the amounts authorized to be appropriated to the Department of State for “Migration and Refugee Assistance” for fiscal years 1986 and 1987, which may be used for enhanced reception and placement services under section 412(b) of the Immigration and Nationality Act; and

(B) any other amounts authorized to be appropriated for such services.

SEC. 6. ALLOCATION AND USE OF SOCIAL SERVICE FUNDS.

(a) **BASED ON REFUGEE POPULATION.**—[Omitted; added subparagraph (B) to § 412(c)(1).]

(b) **CLARIFICATION OF USE OF SOCIAL SERVICE FUNDS.**—[Omitted; added subparagraph (C) to § 412(c)(1).]

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to allocations of funds for fiscal years beginning with fiscal year 1987.

(d) **CONFORMING AMENDMENT.**—[Omitted.]

SEC. 7. MAINTAINING FUNDING LEVEL OF MATCHING GRANT PROGRAM.

(a) **MAINTAINING FUNDING LEVEL.**—Subject to the availability of appropriations, the Director of the Office of Refugee Resettlement shall not reduce the maximum average Federal contribution level per refugee in the matching grant program and shall not increase the percentage grantee matching requirement under that program below the level, or above the percentage, in effect under the program for grants in fiscal year 1985.

(b) **MATCHING GRANT PROGRAM.**—The “matching grant program” referred to in subsection (a) is the voluntary agency program which is known as the matching grant program and is funded under section 412(c) of the Immigration and Nationality Act.

SEC. 8. TARGETED ASSISTANCE PROJECT GRANTS.

(a) **SPECIFIC AUTHORIZATION FOR TARGETED ASSISTANCE PROJECT GRANTS.**—[Omitted; added paragraph (2) to § 412(c).]

(b) **CONFORMING AMENDMENT.**—[Omitted.]

SEC. 9. CASH AND MEDICAL ASSISTANCE.

(a) **CLARIFICATION OF DISQUALIFICATION FROM CASH ASSISTANCE FOR REFUGEES REFUSING OFFERS OF EMPLOYMENT OR TRAINING.**—[Omitted; added subparagraph (C) to § 412(e)(2).]

(b) **CONSIDERATION OF RECOMMENDATIONS AND ASSISTANCE OF VOLUNTARY AGENCIES.**—[Omitted; added paragraph (8) to § 412(e).]

(c) **EFFECTIVE DATE.**—The amendments made by subsection (a) of this section shall apply to aliens entering the United States as refugees on or after the first day of the first calendar quarter that begins more than 90 days after the date of the enactment of this Act.

SEC. 10. PERMITTING COVERAGE OF CERTAIN DEPENDENT REFUGEES UNDER ALTERNATIVE PROJECTS.

[Omitted; added sentence at the end of § 412(e)(7)(A).]

SEC. 11. REFUGEES COVERED BY ANNUAL REPORT.

[Amended § 413(a)(2)(A).]

SEC. 12. PROHIBITING USE OF BLOCK OR CONSOLIDATED GRANTS.

[Omitted; added subparagraphs (B) and (C) to § 412(a)(4).]

SEC. 13. ASSISTANCE TO STATES AND COUNTIES FOR INCARCERATION OF CERTAIN CUBAN NATIONALS.

[Omitted; added subsections (f) and (g) to § 412.]

G. CUBAN POLITICAL PRISONERS AND IMMIGRANTS

(Title VII of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988, as contained in § 101(a) of Public Law 100-202, December 22, 1987, 101 Stat. 1329-40)

TITLE VII—CUBAN POLITICAL PRISONERS AND IMMIGRANTS

SEC. 701. This title may be cited as "Cuban Political Prisoners and Immigrants".

SEC. 702.¹ (a) PROCESSING OF CERTAIN CUBAN POLITICAL PRISONERS AS REFUGEES.—In light of the announcement of the Government of Cuba on November 20, 1987, that it would reimplement immediately the agreement of December 14, 1984, establishing normal migration procedures between the United States and Cuba, on and after the date of the enactment of this Act, consular officer[s] of the Department of State and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to reassure the orderly process of available applicants.

(b) PROCESSING OF IMMIGRANT VISA APPLICATIONS OF CUBAN NATIONALS IN THIRD COUNTRIES.—Notwithstanding section 212(f) and section 243(g) of the Immigration and Nationality Act, on and after the date of the enactment of this Act, consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term "refugee" has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

¹ This section is virtually identical to, and duplicative of, § 903 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100-204, 101 Stat. 1401, Dec. 22, 1987), shown in Appendix II.E.

IV. CURRENT OR RECENT ALIEN ADJUSTMENT PROVISIONS

A. CUBAN ADJUSTMENT

(Public Law 89-732, November 2, 1966, as Amended)

That, notwithstanding the provisions of section 245(c) of the Immigration and Nationality Act the status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959 and has been physically present in the United States for at least one year, may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if the alien makes an application for such adjustment, and the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence. Upon approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission for permanent residence as of a date thirty months prior to the filing of such an application or the date of his last arrival into the United States, whichever date is later. The provisions of this Act shall be applicable to the spouse and child of any alien described in this subsection, regardless of their citizenship and place of birth, who are residing with such alien in the United States.

SEC. 2. In the case of any alien described in section 1 of this Act who, prior to the effective date thereof, has been lawfully admitted into the United States for permanent residence, the Attorney General shall, upon application, record his admission for permanent residence as of the date the alien originally arrived in the United States as a nonimmigrant or as a parolee, or a date thirty months prior to the date of enactment of this Act, whichever date is later.

[Section 3 amended §13 of Pub. L. 89-236 (8 U.S.C. 1255(c)); omitted as executed.]

SEC. 4. Except as otherwise specifically provided in this Act, the definitions contained in section 101 (a) and (b) of the Immigration and Nationality Act shall apply in the administration of this Act. Nothing contained in this Act shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, or naturalization.

SEC. 5. The approval of an application for adjustment of status to that of lawful permanent resident of the United States pursuant to the provisions of section 1 of this Act shall not require the Secretary of State to reduce the number of visas authorized to be issued in any class in the case of any alien who is physically present in the United States on or before the effective date of the Immigration and Nationality Act Amendments of 1976.

B. INDOCHINA REFUGEE ADJUSTMENT

(Title I of Public Law 95-145, October 28, 1977)

TITLE I—ADJUSTMENT OF STATUS OF INDOCHINA REFUGEES

SEC. 101. That (a) the status of any alien described in subsection (b) of this section may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien makes an application for such adjustment [by October 28, 1983] within six years after the date of enactment of this title;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except for the grounds for exclusion specified in paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act; and

(3) the alien had been physically present in the United States for at least one year.

(b) The benefits provided by subsection (a) shall apply to any alien who is a native or citizen of Vietnam, Laos, or Cambodia and who—

(1) was paroled into the United States as a refugee from those countries under section 212(d)(5) of the Immigration and Nationality Act subsequent to March 31, 1975, but prior to January 1, 1979; or

(2) was inspected and admitted or paroled into the United States on or before March 31, 1975, and was physically present in the United States on March 31, 1975.

SEC. 102. Upon approval of an application for adjustment of status under section 101 of this title, the Attorney General shall establish a record of the alien's admission for permanent residence as of March 31, 1975, or the date of the alien's arrival in the United States, whichever date is later.

SEC. 103. Any alien determined to be eligible for lawful admission for permanent residence under this title who acquired that status under the provisions of the Immigration and Nationality Act prior to [October 28, 1977] the date of enactment of this title may, upon application, have his admission for permanent residence recorded as of March 31, 1975, or the date of his arrival in the United States, whichever date is later.

SEC. 104. When an alien has been granted the status of having been lawfully admitted to the United States for permanent residence pursuant to this title, his spouse and children, regardless of nationality, may also be granted such status by the Attorney General, in his discretion and under such regulations he may prescribe, if they meet the requirements specified in section 101(a) of this title. Upon approval of the application, the Attorney General shall create a record of the alien's admission for permanent residence as of the date of the record of admission of the alien through whom such spouse and children derive benefits under this section.

SEC. 105. Any alien who ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, or political opinion shall be ineligible for permanent residence under any provision of this title.

SEC. 106. When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to the provisions of this title the Secretary of State shall not be required to reduce the number of visas authorized to be issued under the Immigration and Nationality Act, and the Attorney General shall not be required to charge the alien any fee.

SEC. 107. Except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this title. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, and naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this title shall not preclude him from seeking such status under any other provision of law for which he may be eligible.

C. CONDITIONAL ENTRANTS ADJUSTMENT

(Former §§ 203(a)(7), 203(g), and 203(h))

Section 203(a)(7) of the Immigration and Nationality Act, before April 1, 1980, provided for conditional entry as follows:

(7) Conditional entries shall next be made available by the Attorney General, pursuant to such regulations as he may prescribe and in a number not to exceed 6 per centum of the number specified in section 201(a), to aliens who satisfy an Immigration and Naturalization Service officer at an examination in any non-Communist or non-Communist-dominated country, (A) that (i) because of persecution or fear of persecution on account of race, religion, or political opinion they have fled (I) from any Communist or Communist-dominated country or area, or (II) from any country with-

in the general area of the Middle East, and (ii) are unable or unwilling to return to such country or area on account of race, religion, or political opinion, and (iii) are not nationals of the countries or areas in which their application for conditional entry is made; or (B) that they are persons uprooted by catastrophic natural calamity as defined by the President who are unable to return to their usual place of abode. For the purpose of the foregoing the term "general area of the Middle East" means the area between and including (1) Libya on the west, (2) Turkey on the north, (3) Pakistan on the east, and (4) Saudi Arabia and Ethiopia on the south: *Provided*, That immigrant visas in a number not exceeding one-half the number specified in this paragraph may be made available, in lieu of conditional entries of a like number, to such aliens who have been continuously physically present in the United States for a period of at least two years prior to application for adjustment of status.

Sections 203 (g) and (h) of the Immigration and Nationality, which were repealed by section 203(c)(8) of the Refugee Act of 1980 (Pub. L. 96-212, Mar. 17, 1980, 94 Stat. 107), effective Apr. 1, 1980, provided as follows, for the adjustment of status of conditional entrants under former section 203(a)(7) of the Act (shown above):

(g) Any alien who conditionally entered the United States as a refugee, pursuant to subsection (a)(7) of this section, whose conditional entry has not been terminated by the Attorney General pursuant of such regulations as he may prescribe, who has been in the United States for at least one year, and who has not acquired permanent residence, shall forthwith return or be returned to the custody of the Immigration and Naturalization Service and shall thereupon be inspected and examined for admission into the United States, and his case dealt with in accordance with the provisions of sections 235, 236, and 237 of this Act.

(h) Any alien who, pursuant to subsection (g) of this section, is found, upon inspection by the immigration officer or after hearing before a special inquiry officer, to be admissible as an immigrant under this Act at the time of his inspection and examination, except for the fact that he was not and is not in possession of the documents required by section 212(a)(20), shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival.

Section 5 of Pub. L. 95-412 (Oct. 5, 1978, 92 Stat. 909), as amended, provides as follows:

SEC. 5. Notwithstanding any other provision of law, any refugee, not otherwise eligible for retroactive adjustment of status, who was or is paroled into the United States by the Attorney General pursuant to section 212(d)(5) of the Immigration and Nationality Act before April 1, 1980, shall have his status adjusted pursuant to the provisions of section 203(g) and (h) of the Act.

Section 204(c)(1) of the Refugee Act of 1980 provides:

(c)(1) The repeal of subsections (g) and (h) of section 203 of the Immigration and Nationality Act, made by section 203(c)(8) of this title, shall not apply with respect to any individual who before April 1, 1980, was granted a conditional entry under section 203(a)(7) of the Immigration and Nationality Act (and under section 202(e)(7) of such Act, if applicable), as in effect immediately before such date, and it shall not apply to any alien paroled into the United States before April 1, 1980, who is eligible for the benefits of section 5 of Public Law 95-412.

Section 204(c)(3) of that Act, shown in Appendix III.D., provided for waiver of certain exclusionary standards for adjustment of status of refugees.

D. VIRGIN ISLANDS NONIMMIGRANT ALIEN ADJUSTMENT ACT OF 1982

(Public Law 97-271, Sept. 30, 1982; 8 U.S.C. 1255 note, as amended by the Immigration Act of 1990)

SHORT TITLE AND FINDINGS

SECTION 1. (a) This Act may be cited as the "Virgin Islands Nonimmigrant Alien Adjustment Act of 1982".

(b) Congress finds—

(1) that in order to eliminate the uncertainty and insecurity of aliens who—

(A) legally entered the Virgin Islands of the United States as nonimmigrants for employment under the temporary alien labor program,

(B) have continued to reside in the Virgin Islands for long periods (some for as long as twenty years), and

(C) have contributed to the economic, social, and cultural development of the Virgin Islands and have become an integral part of the society of the Virgin Islands,

it is necessary and equitable to provide for the orderly adjustment of their immigration status to that of permanent resident aliens; and

(2) because—

(A) the Congress has special responsibility and authority with respect to the territories and the establishment of immigration policy, and

(B)(i) the Virgin Islands is a small and densely populated insular territory with limited resources,

(ii) most of the aliens eligible for benefits under section 2 of this Act are natives of islands in the Caribbean and have relatives residing in such islands, and such relatives, if they were permitted to immigrate to the United States, are likely to settle in the Virgin Islands, and

(iii) the admission of a significant number of these relatives would have a severe and detrimental impact on the limited health, education, housing, and other services available in the Virgin Islands,

there is a necessary and compelling need to prevent a secondary migration of a significant number of such relatives to the Virgin Islands.

ADJUSTMENT OF IMMIGRATION STATUS

SEC. 2. (a) The status of any alien described in subsection (b) may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if the alien—

(1) makes application for such adjustment during the one-year period beginning on the date of the enactment of this Act,

(2) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except for the grounds of exclusion specified in paragraphs (14), (20), (21), (25), and (32), of section 212(a) of the Immigration and Nationality Act (hereinafter in this Act referred to as "the Act"), and

(3) is physically present in the Virgin Islands of the United States at the time of filing such application for adjustment.

If such an alien has filed such an application and is or becomes deportable for failure to maintain nonimmigrant status, the Attorney General shall defer the deportation of the alien until final action is taken on the alien's application for adjustment.

(b) The benefits provided by subsection (a) apply to any alien who—

(1) was inspected and admitted to the Virgin Islands of the United States either as a nonimmigrant alien worker under section 101(a)(15)(H)(ii) of the Act or as a spouse or minor child of such worker, and

(2) has resided continuously in the Virgin Islands of the United States since June 30, 1975.

(c)(1) The numerical limitations described in sections 201(a) and 202 of the Act shall not apply to an alien's adjustment of status under this section. Such adjustment of status shall not result in any reduction in the number of aliens who may

acquire the status of an alien lawfully admitted to the United States for permanent residence under the Act.

(2) The Secretary of State, in his discretion and after consultation with the Secretary of the Interior and the Governor of the Virgin Islands of the United States, may limit the number of immigrant visas that may be issued in any fiscal year to aliens with respect to whom second preference petitions (filed by aliens who have had their status so adjusted) are approved.

(3) Notwithstanding any other provision of law, no alien shall be eligible to receive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence)—

(A) by virtue of a fourth or fifth preference petition filed by an individual who had his status adjusted under this section unless the individual establishes to the satisfaction of the Attorney General that exceptional and extremely unusual hardship exists for permitting the alien to receive such visa (or otherwise acquire such status); or

(B) by virtue of a second preference petition filed by an individual who was admitted to the United States as an immigrant by virtue of an immediate relative petition filed by the son or daughter of the individual, if that son or daughter had his or her status adjusted under this section.

(4) For purposes of this subsection, the terms "second preference petition", "fourth preference petition", "fifth preference petition", and "immediate relative petition" mean, in the case of an alien, a petition filed under section 204(a) of the Act to grant preference status to the alien by reason of the relationship described in section 203(a)(2), 203(a)(4), 203(a)(5), or 201(b), respectively, of the Act (as in effect¹ before October 1, 1991) or by reason of the relationship described in section 203(a)(2), 203(a)(3), or 203(a)(4), or 201(b)(2)(A)(i), respectively, of such Act (as in effect on or after such date).

(d) Except as otherwise specifically provided in this section, the definitions contained in the Act shall apply in the administration of this section. Nothing contained in this Act shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Act or any other law relating to immigration, nationality, and naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude him from seeking such status under any other provision of law for which he may be eligible.

TERMINATION OF TEMPORARY WORKER PROGRAM IN THE VIRGIN ISLANDS

SEC. 3. Notwithstanding any other provision of law, on and after the date of the enactment of this Act the Attorney General shall not approve any petition filed under section 214(c) of the Act in the case of importing any alien as a nonimmigrant under section 101(a)(15)(H)(ii) of such Act for employment in the Virgin Islands of the United States other than for employment as an entertainer or as an athlete and for a period not exceeding forty-five days.

IMPACT ASSESSMENT AND REPORT

SEC. 4. The Secretaries of Health and Human Services, Education, Housing and Urban Development, Labor, and the Interior, and the Attorney General, in consultation with officials of the Government of the Virgin Islands of the United States and within such amounts as may otherwise be available through appropriations, shall jointly assess the impact on the Government of the Virgin Islands of providing health, education, housing, and other social services to individuals whose status is adjusted under section 2 of this Act (and to relatives of such individuals who enter the Virgin Islands as a result of such adjustment) and the need for assistance to the Government of the Virgin Islands to assist it in meeting the needs of these individuals and relatives. They shall, within one year after the date of the enactment of this Act, report to the President and the Congress on the results of their assessment and on any recommendations for changes in legislation which may be appropriate.

¹ § 162(e)(6) of the Immigration Act of 1990 (P.L. 101-649, Nov. 29, 1990, 104 Stat. 5011) inserted the matter beginning with "(as in effect"

E. CUBAN/HAITIAN ADJUSTMENT

(§ 202 of the Immigration Reform and Control Act of 1986, Public Law 99-603, as amended by § 2(i) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525))

SEC. 202. CUBAN-HAITIAN ADJUSTMENT.

(a) ADJUSTMENT OF STATUS.—The status of any alien described in subsection (b) may be adjusted by the Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien applies for such adjustment within two years after the date of the enactment of this Act;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (14), (15), (16), (17), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not apply and the Attorney General may, in his discretion, waive the ground for exclusion specified in paragraph (19) of such section;

(3) the alien is not an alien described in section 243(h)(2) of such Act;

(4) the alien is physically present in the United States on the date the application for such adjustment is filed; and

(5) the alien has continuously resided in the United States since January 1, 1982.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien—

(1) who has received an immigration designation as a Cuban/Haitian Entrant (Status Pending) as of the date of the enactment of this Act, or

(2) who is a national of Cuba or Haiti, who arrived in the United States before January 1, 1982, with respect to whom any record was established by the Immigration and Naturalization Service before January 1, 1982, and who (unless the alien filed an application for asylum with the Immigration and Naturalization Service before January 1, 1982) was not admitted to the United States as a nonimmigrant.

(c) NO AFFECT ON FASCELL-STONE BENEFITS.—An alien who, as of the date of the enactment of this Act, is a Cuban and Haitian entrant for the purpose of section 501 of Public Law 96-422 shall continue to be considered such an entrant for such purpose without regard to any adjustment of status effected under this section.

(d) RECORD OF PERMANENT RESIDENCE AS OF JANUARY 1, 1982.—Upon approval of an alien's application for adjustment of status under subsection (a), the Attorney General shall establish a record of the alien's admission for permanent residence as of January 1, 1982.

(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act and the Attorney General shall not be required to charge the alien any fee.

(f) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

F. EVD ADJUSTMENT OF STATUS

(Title IX of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988, as contained in § 101(a) of Public Law 100-202, 101 Stat. 1329-43, December 22, 1987)¹

TITLE IX—ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN NATIONALS OF COUNTRIES FOR WHICH EXTENDED VOLUNTARY DEPARTURE HAS BEEN MADE AVAILABLE

SEC. 901. This title may be cited as "Adjustment to Lawful Resident Status of Certain Nationals of Countries for Which Extended Voluntary Departure Has Been Made Available".

SEC. 902 (a) ADJUSTMENT OF STATUS.—The status of any alien who is a national of a foreign country the nationals of which were provided (or allowed to continue in) "extended voluntary departure" by the Attorney General on the basis of a nationality group determination at any time during the 5-year period ending on November 1, 1987, shall be adjusted by the Attorney General to that of an alien lawfully admitted for temporary residence if the alien—

(1) applies for such adjustment within two years after the date of the enactment of this Act;

(2) establishes that (A) the alien entered the United States before July 21, 1984, and (B) has resided continuously in the United States since such date and through the date of the enactment of this Act;

(3) establishes continuous physical presence in the United States (other than brief, casual, and innocent absences) since the date of the enactment of this Act;

(4) in the case of an alien who entered the United States as a non-immigrant before July 21, 1984, establishes that (A) the alien's period of authorized stay as a nonimmigrant expired not later than six months after such date through the passage of time or (B) the alien applied for asylum before July 21, 1984; and

(5) meets the requirements of section 245A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(a)(4)).

The Attorney General shall provide for the acceptance and processing of applications under this subsection by not later than 90 days after the date of the enactment of this Act.

(b) STATUS AND ADJUSTMENT OF STATUS.—The provisions of subsections (b), (c)(6), (d), (f), (g), (h), and (i) of section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) shall apply to aliens provided temporary residence under subsection (a) in the same manner as they apply to aliens provided lawful temporary residence status under section 245A(a) of such Act.

¹ For identical, duplicative provision, see § 902 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100-204), shown in Appendix II.E.

G. SOVIET AND VIETNAMESE PAROLEE ADJUSTMENT

(Section 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, Public Law 101-167, 103 Stat. 1263, November 21, 1989, as amended by section 598(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, Pub. L. 101-513, Nov. 5, 1990 and by section 582 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Pub. L. 102-391, October 6, 1992) and section 905 of the FREEDOM Support Act (Pub. L. 102-511, October 24, 1992))

ADJUSTMENT OF STATUS FOR CERTAIN SOVIET AND INDOCHINESE PAROLEES

SEC. 599E. [8 U.S.C. 1255 note] (a) IN GENERAL.—The Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence if the alien—

- (1) applies for such adjustment,
- (2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed,
- (3) is admissible to the United States as an immigrant, except as provided in subsection (c), and
- (4) pays a fee (determined by the Attorney General) for the processing of such application.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided in subsection (a) shall only apply to an alien who—

- (1) was a national of an independent state of the former Soviet Union or of Estonia, Latvia, Lithuania, Vietnam, Laos, or Cambodia, and
- (2) was inspected and granted parole into the United States during the period beginning on August 15, 1988, and ending on September 30, 1994, after being denied refugee status.

(c) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply to adjustment of status under this section and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)) with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(d) DATE OF APPROVAL.—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission as a lawful permanent resident as of the date of the alien's inspection and parole described in subsection (b)(2).

(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act.

H. H-1 NONIMMIGRANT NURSE ADJUSTMENT

(Section 2 of the Immigration Nursing Relief Act of 1989, Public Law 101-238, 103 Stat. 2099, December 18, 1989)

SEC. 2. ADJUSTMENT OF STATUS FOR CERTAIN H-1 NONIMMIGRANT NURSES.

(a) IN GENERAL.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act shall not apply to the adjustment of status under section 245 of such Act of an immigrant, and the immigrant's accompanying spouse and children—

- (1) who, as of September 1, 1989, has the status of a nonimmigrant under paragraph (15)(H)(i) of section 101(a) of such Act to perform services as a registered nurse,

(2) who, for at least 3 years before the date of application for adjustment of status (whether or not before, on, or after, the date of the enactment of this Act), has been employed as a registered nurse in the United States, and

(3) whose continued employment as a registered nurse in the United States meets the standards established for the certification described in section 212(a)(14) of such Act.

The Attorney General shall promulgate regulations to carry out this subsection by not later than 90 days after the date of the enactment of this Act.

(b) TRANSITION.—For purposes of adjustment of status under section 245 of the Immigration and Nationality Act in the case of an alien who, as of December 31, 1989, is present in the United States in the lawful status of a nonimmigrant under section 101(a)(15)(H)(i) of such Act to perform services as a registered nurse, or who is the spouse or child of such an alien, such an alien shall be considered as having continued to maintain lawful status as such a nonimmigrant until the end of the 120-day period beginning on the date the Attorney General promulgates regulations carrying out subsection (a).

(c) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—The definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

(d) APPLICATION PERIOD.—The alien, and accompanying spouse and children, must apply for such adjustment within the 5-year period beginning on the date the Attorney General promulgates regulations required under subsection (a).

V. EXCERPTS FROM LAWS RELATING TO COMMONWEALTHS AND FORMER TERRITORIES

A. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

1. PUBLIC LAW 94-241 (MARCH 24, 1976): APPROVING COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IN POLITICAL UNION WITH THE UNITED STATES OF AMERICA

[NOTE.—On October 24, 1986, the United States informed the United Nations that November 3, 1986, is the date this Covenant will enter fully into force under Pub. L. 94-241.]

ARTICLE III

CITIZENSHIP AND NATIONALITY

SECTION 301. The following persons and their children under the age of 18 years on the effective date of this Section, who are not citizens or nationals of the United States under any other provisions of law, and who on that date do not owe allegiance to any foreign state, are declared to be citizens of the United States, except as otherwise provided in Section 302:

(a) all persons born in the Northern Mariana Islands who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, and who on that date are domiciled in the Northern Mariana Islands or in the United States or any territory or possession thereof;

(b) all persons who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, who have been domiciled continuously in the Northern Mariana Islands for at least five years immediately prior to that date, and who, unless under age, registered to vote in elections for the Marianas Islands District Legislature or for any municipal election in the Northern Mariana Islands prior to January 1, 1975; and

(c) all persons domiciled in the Northern Mariana Islands on the day preceding the effective date of this Section, who, although not citizens of the Trust Territory of the Pacific Islands on that date have been domiciled continuously in the Northern Mariana Island beginning prior to January 1, 1974.

SECTION 302. Any person who becomes a citizen of the United States solely by virtue of the provisions of Section 301 may within six months after the effective date of that Section or within six months after reaching the age of 18 years, whichever date is the later, become a national but not a citizen of the United States by making a declaration under oath before any court established by the Constitution or laws of the United States or any court of record in the Commonwealth in the form as follows:

"I———being duly sworn, hereby declare my intention to be a national but not a citizen of the United States."

SECTION 303. All persons born in the Commonwealth on or after the effective date of this Section and subject to the jurisdiction of the United States will be citizens of the United States at birth.

SECTION 304. Citizens of the Northern Mariana Island will be entitled to all privileges and immunities of citizens in the several States of the United States.

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ARTICLE V

APPLICABILITY OF LAWS

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SECTION 502. (a) The following laws of the United States in existence on the effective date of this Section and subsequent amendments to such laws will apply to the Northern Mariana Islands, except as otherwise provided in this Covenant:

(1) those laws which provide federal services and financial assistance programs and the federal banking laws as they apply to Guam; Section 228 of Title II and Title XVI of the Social Security Act as it applies to the several States; the Public Health Service Act as it applies to the Virgin Islands; and the Micronesian Claims Act as it applies to the Trust Territory of the Pacific Islands;

(2) those laws not described in paragraph (1) which are applicable to Guam and which are of general application to the several States as they are applicable to the several States; and

(3) those laws not described in paragraph (1) or (2) which are applicable to the Trust Territory of the Pacific Islands, but not their subsequent amendments unless specifically made applicable to the Northern Mariana Islands, as they apply to the Trust Territory of the Pacific Islands until termination of the Trusteeship Agreement, and will thereafter be inapplicable.

(b) [Omitted.]

SECTION 503. The following laws of the United States, presently inapplicable to the Trust Territory of the Pacific Islands, will not apply to the Northern Mariana Islands except in the manner and to the extent made applicable to them by the Congress by law after termination of the Trusteeship Agreement:

(a) except as otherwise provided in Section 506, the immigration and naturalization laws of the United States;

(b) except as otherwise provided in Subsection (b) of Section 502 the coastwise laws of the United States and any prohibition in the laws of the United States against foreign vessels landing fish or unfinished fish products in the United States; and

(c) the minimum wage provisions of Section 6, Act of June 25, 1938, 52 Stat. 1062, as amended.

SECTION 504. The President will appoint a Commission on Federal Laws to survey the laws of the United States and to make recommendations to the United States Congress as to which laws of the United States not applicable to the Northern Mariana Islands should be made applicable and to what extent and in what manner, and which applicable laws should be made inapplicable and to what extent and in what manner. The Commission will consist of seven persons (at least four of whom will be citizens of the Trust Territory of the Pacific Islands who are and have been for at least five years domiciled continuously in the Northern Mariana Islands at the time of their appointments) who will be representative of the federal, local, private and public interests in the applicability of laws of the United States to the Northern Mariana Islands. The Commission will make its final report and recommendations to the Congress within one year after the termination of the Trusteeship Agreement, and before that time will make such interim reports and recommendations to the Congress as it considers appropriate to facilitate the transition of the Northern Mariana Islands to its new political status. In formulating its recommendations the Commission will take into consideration the potential effect of each law on local conditions within the Northern Mariana Islands, the policies embodied in the law and the provisions and purposes of this Covenant. The United States will bear the cost of the work of the Commission.

[Section 505 omitted.]

SECTION 506. (a) Notwithstanding the provisions of Subsection 503(a), upon the effective date of this Section the Northern Mariana Islands will be deemed to be a part of the United States under the Immigration and Nationality Act, as amended for the following purposes only, and the said Act will apply to the Northern Mariana Islands to the extent indicated in each of the following Subsections of this Section.

(b) With respect to children born abroad to United States citizen or non-citizen national parents permanently residing in the Northern Mariana Islands the provisions of Sections 301 and 308 of the said Act will apply.

(c) With respect to aliens who are "immediate relatives" (as defined in Subsection 201(b) of the said Act) of United States citizens who are permanently residing in the Northern Mariana Islands all the provisions of the said Act will apply, commencing when a claim is made to entitlement to "immediate relative" status. A person who is certified by the Government of the Northern Mariana Islands both to have been a lawful permanent resident of the Northern Mariana Islands and have

had the "immediate relative" relationship denoted herein on the effective date of this Section will be presumed to have been admitted to the United States for lawful permanent residence as of that date without the requirements of any of the usual procedures set forth in the said Act. For the purpose of the requirements of judicial naturalization, the Northern Mariana Islands will be deemed to constitute a State as defined in Subsection 101(a) paragraph (36) of the said Act. The Courts of record of the Northern Mariana Islands and the District Court for the Northern Mariana Islands will be included among the courts specified in Subsection 310(a) of the said Act and will have jurisdiction to naturalize persons who become eligible under this Section and who reside within their respective jurisdictions.

(d) With respect to persons who will become citizens or nationals of the United States under Articles III of this Covenant or under this Section the loss of nationality provisions of the said Act will apply.

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ARTICLE X

APPROVAL, EFFECTIVE DATES, AND DEFINITIONS

* * * * *

SECTION 1003. The provisions of this Covenant will become effective as follows, unless otherwise specifically provided:

(a) Sections 105, 201-203, 503, 504, 606, 801, 903 and Article X will become effective on approval of this Covenant;

(b) Sections 102, 103, 204, 304, Article IV, Sections 501, 502, 505, 601-605, 607, Article VII, Sections 802-805, 901 and 902 will become effective on a date [January 9, 1978] to be determined and proclaimed by the President of the United States which will be not more than 180 days after this Covenant and the Constitution of the Northern Mariana Islands have both been approved; and

(c) The remainder of this Covenant will become effective upon the termination of the Trusteeship Agreement and the establishment of the Commonwealth of the Northern Mariana Islands. [October 24, 1986].

* * * * *

SECTION 1005. As used in this Covenant:

(a) "Trusteeship Agreement" means the Trusteeship Agreement for the former Japanese Mandated Islands concluded between the Security Council of the United Nations and the United States of America, which entered into force on July 18, 1947;

(b) "Northern Mariana Islands" means the area now known as the Mariana Islands District of the Trust Territory of the Pacific Islands, which lies within the area north of 14° north latitude, south of 21° north latitude, west of 150° east longitude and east of 144° east longitude;

(c) Government of the Northern Mariana Islands" includes, as appropriate, the Government of the Mariana Islands District of the Trust Territory of the Pacific Islands at the time this Covenant is signed, its agencies and instrumentalities, and its successors, including the Government of the Commonwealth of the Northern Mariana Islands;

(d) "Territory or possession" with respect to the United States includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa;

(e) "Domicile" means that place where a person maintains a residence with the intention of continuing such residence for an unlimited or indefinite period, and to which such person has the intention of returning whenever he is absent, even for an extended period.

2. SECTIONS 19-24 OF PUBLIC LAW 98-213 (DECEMBER 8, 1983)

SEC. 19. (a) The President may, subject to the provisions of section 20 of this Act, by proclamation provide that the requirement of United States citizenship or nationality provided for in any of the statutes listed on pages 63-74 of the Interim Report of the Northern Mariana Islands Commission on Federal Laws to the Congress of the United States, dated January 1982 and submitted pursuant to section 504 of the Covenant, shall not be applicable to the citizens of the Northern Mariana Is-

lands. The President is authorized to correct clerical errors in the list, and to add to it provisions, where it appears from the context that they were inadvertently omitted from the list.

(b) A statute which denies a benefit or imposes a burden or a disability on an alien, his dependents, or his survivors shall, for the purposes of this Act, be considered to impose a requirement of United States citizenship or nationality.

SEC. 20. (a) The President may issue one or more proclamations under the authority of this Act.

(b) When issuing such proclamation or proclamations the President—

(1) shall take into account:

(i) the hardship suffered by the citizens of the Northern Mariana Islands resulting from the fact that, while they are subject to most of the laws of the United States, they are denied the benefit of those laws which contain a requirement of United States citizenship or nationality;

(ii) the responsibilities, obligations, and limitations imposed upon the United States by international law;

(2) may make the requirement of United States citizenship or nationality inapplicable only to those citizens of the Northern Mariana Islands who declare in writing that they do not intend to exercise their option under section 302 of the Covenant to become a national but not a citizen of the United States;

(3) may make the requirement of a United States citizenship or nationality inapplicable only in the Northern Mariana Islands;

(4) may retain the requirement of United States citizenship or nationality with respect to parts of a statute or portion thereof.

SEC. 21. If the President does not issue any proclamation authorized by section 19 of this Act within a period of six months following the effective date of the Act, the requirement of United States citizenship or nationality as a prerequisite of any benefit, right, privilege, or immunity in any statute made applicable to the Northern Mariana Islands by the terms of that statute or by operation of the Covenant shall not be applicable to citizens of the Northern Mariana Islands: *Provided*, That the provisions of this section shall not be applicable to any requirements of United States citizenship or nationality contained in statutes relating to the political rights of citizenship, and to the diplomatic protection of, and services to, citizens or nationals of the United States in foreign countries: *Provided further*, That with respect to the statutes relating to the uniformed services, the requirement of United States citizenship or nationality shall remain in effect, except with respect to those citizens of the Northern Mariana Islands who declare in writing that they do not intend to exercise their option under section 302 of the Covenant to become a national but not a citizen of the United States.

SEC. 22. Nothing in this Act shall be construed as extending to the Northern Mariana Islands any statutory provision or regulation not otherwise applicable to or within the Northern Mariana Islands, in particular the statutes relating to immigration and nationality and the regulations issued under them.

SEC. 23. The authority of the President to issue proclamations under section 19 of this Act shall terminate upon the establishment of the Commonwealth of the Northern Mariana Islands pursuant to section 1002 of the Covenant. Section 21 of this Act shall not become effective if the Commonwealth of the Northern Mariana Islands is established within the period of six months following the effective date of this Act.

SEC. 24. As used in this Act:

(a) "Covenant" means the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America, approved by the Joint Resolution of March 24, 1976 (90 Stat. 263, 48 U.S.C. 1681, note).

(b) "Citizen of the Northern Mariana Islands" means a citizen of the Trust Territory of the Pacific Islands and his or her children under the age of eighteen years, who does not owe allegiance to any foreign state, and who—

(1) was born in the Northern Mariana Islands and is physically present in the Northern Mariana Islands or in the United States or any territory or possession thereof; or

(2) has been lawfully and continuously domiciled in the Northern Mariana Islands since January 1, 1974, and, who, unless then under age, was registered to vote in an election for the Mariana Islands legislature or for any municipal election in the Northern Mariana Islands prior to January 1, 1975.

(c) "Domicile" means that place where a person maintains a residence with the intention of continuing such residence for an unlimited or indefinite period, and to which such person has the intention of returning whenever he is absent, even for an extended period.

B. FEDERATED STATES OF MICRONESIA AND THE MARSHALL ISLANDS

(Public Law 99-239, January 14, 1986, Compact of Free Association Act of 1985)

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This joint resolution, together with the Table of Contents in subsection (b) of this section, may be cited as the “Compact of Free Association Act of 1985”.

* * * * *

TITLE I—APPROVAL OF COMPACT; INTERPRETATION OF, AND U.S. POLICIES REGARDING, COMPACT; SUPPLEMENTAL PROVISIONS

SECTION 101. APPROVAL OF COMPACT OF FREE ASSOCIATION.

(a) **FEDERATED STATES OF MICRONESIA.**—The Compact of Free Association set forth in title II of this joint resolution between the United States and the Government of the Federated States of Micronesia is hereby approved, and Congress hereby consents to the subsidiary agreements as set forth on pages 115 through 391 of House Document 98-192 of March 30, 1984, as they relate to such Government. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the Compact, to an effective date for and thereafter to implement such Compact, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement.

(b) **MARSHALL ISLANDS.**—The Compact of Free Association set forth in title II of this joint resolution between the United States and the Government of the Marshall Islands is hereby approved, and Congress hereby consents to the subsidiary agreements as set forth on pages 115 through 391 of House Document 98-192 of March 30, 1984, as they relate to such Government. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the Compact, to an effective date for and thereafter to implement such Compact, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement.

(c) **REFERENCE TO THE COMPACT.**—Any reference in this joint resolution to “the Compact” shall be treated as a reference to the Compact of Free Association set forth in title II of this joint resolution.

* * * * *

(f) **EFFECTIVE DATE.**—(1) The President shall not agree to an effective date for the Compact, as authorized by this section, until after certifying to Congress that the agreements described in section 102 and section 103 of this title have been concluded.

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SEC. 104. INTERPRETATION OF AND UNITED STATES POLICY REGARDING COMPACT OF FREE ASSOCIATION.

* * * * *

(b) **IMMIGRATION.**—The rights of a bona fide naturalized citizen of the Marshall Islands or the Federated States of Micronesia to enter the United States, to lawfully engage therein in occupations, and to establish residence therein as a non-immigrant, pursuant to the provisions of section 141(a)(3) of the Compact, shall not extend to any such naturalized citizen with respect to whom circumstances associated with the acquisition of the status of a naturalized citizen are such as to allow a reasonable inference, on the part of appropriate officials of the United States and subject to United States procedural requirements, that such naturalized status was acquired primarily in order to obtain such rights.

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SEC. 108. TRANSITIONAL IMMIGRATION RULES.

(a) **CITIZEN OF NORTHERN MARIANA ISLANDS.**—Any person who is a citizen of the Northern Mariana Islands, as that term is defined in section 24(b) of the Act of December 8, 1983 (97 Stat. 1465), is considered a citizen of the United States for purposes of entry into, permanent residence, and employment in the United States and its territories and possessions.

(b) **TERMINATION.**—The provisions of this section shall cease to be effective when section 301 of the Covenant to Establish a Commonwealth of the Northern Marian Islands in Political Union With the United States (Public Law 94-241) becomes effective pursuant to section 1003(c) of the Covenant.

* * * * *

TITLE II—COMPACT OF FREE ASSOCIATION

SEC. 201. COMPACT OF FREE ASSOCIATION.

The Compact of Free Association is as follows:

COMPACT OF FREE ASSOCIATION

* * * * *

Article IV

Immigration

Section 141

(a) Any person in the following categories may enter into, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions without regard to paragraphs (14), (20), and (26) of section 212(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(a) (14), (20), and (26):

(1) a person who, on the day preceding the effective date of this Compact is a citizen of the Trust Territory of the Pacific Islands, as defined in Title 5 of the Trust Territory Code in force on January 1, 1979, and has become a citizen of the Marshall Islands or the Federated States of Micronesia;

(2) a person who acquires the citizenship of the Marshall Islands or the Federated States of Micronesia at birth, on or after the effective date of the respective Constitution;

(3) a naturalized citizen of the Marshall Islands or the Federated States of Micronesia who has been an actual resident there for not less than five years after attaining such naturalization and who holds a certificate of actual residence; or

(4) a person entitled to citizenship in the Marshall Islands by lineal descent whose name is included in a list to be furnished by the Government of the Marshall Islands to the United States Immigration and Naturalization Service and any descendants of such persons, provided that such person holds a certificate of lineal descent issued by the Government of the Marshall Islands.

Such persons shall be considered to have the permission of the Attorney General of the United States to accept employment in the United States.

(b) The right of such persons to establish habitual residence in a territory or possession of the United States may, however, be subjected to nondiscriminatory limitations provided for:

(1) in statutes or regulations of the United States; or

(2) in those statutes or regulations of the territory or possession concerned which are authorized by the laws of the United States.

(c) Section 141(a) does not confer on a citizen of the Marshall Islands or the Federated States of Micronesia the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. Section 141(a), however, shall not prevent a citizen of the Marshall Islands or the Federated States of Micronesia from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

Section 142

(a) Any citizen or national of the United States may enter into, lawfully engage in occupations, and reside in the Marshall Islands or the Federated States of Micronesia, subject to the rights of those Governments to deny entry to or deport any such citizen or national as an undesirable alien. A citizen or national of the United States may establish habitual residence or domicile in the Marshall Islands or the Federated States of Micronesia only in accordance with the laws of the jurisdiction in which habitual residence or domicile is sought.

(b) With respect to the subject matter of this Section, the Government of the Marshall Islands or the Federated States of Micronesia shall accord to citizens and nationals of the United States treatment no less favorable than that accorded to citizens of other countries; any denial of entry to or deportation of a citizen or national of the United States as an undesirable alien must be pursuant to reasonable statutory grounds.

Section 143

(a) The privileges set forth in Sections 141 and 142 shall not apply to any person who takes an affirmative step to preserve or acquire a citizenship or nationality other than that of the Marshall Islands, the Federated States of Micronesia or the United States.

(b) Every person having the privileges set forth in Sections 141 and 142 who possesses a citizenship or nationality other than that of the Marshall Islands, the Federated States of Micronesia or the United States ceases to have these privileges two years after the effective date of this Compact, or within six months after becoming 21 years of age, whichever comes later, unless such person executes an oath of renunciation of that other citizenship or nationality.

Section 144

(a) A citizen or national of the United States who, after notification to the Government of the United States of an intention to employ such person by the Government of the Marshall Islands or the Federated States of Micronesia, commences employment with such Government shall not be deprived of his United States nationality pursuant to Section 349 (a)(2) and (a)(4) of the Immigration and Nationality Act, 8 U.S.C. 1481 (a)(2) and (a)(4).

(b) Upon such notification by the Government of the Marshall Islands or the Federated States of Micronesia, the Government of the United States may consult with or provide information to the notifying Government concerning the prospective employee, subject to the provisions of the Privacy Act, 5 U.S.C. 552a.

(c) The requirement of prior notification shall not apply to those citizens or nationals of the United States who are employed by the Government of the Marshall Islands or the Federated States of Micronesia on the effective date of this Compact with respect to the positions held by them at that time.

TITLE FOUR

GENERAL PROVISIONS

Article I

Approval and Effective Date

Section 411

This Compact shall come into effect upon mutual agreement between the Government of the United States, acting in fulfillment of its responsibilities as Administering Authority of the Trust Territory of the Pacific Islands, and the Government of the Marshall Islands or the Federated States of Micronesia and subsequent to completion of the following:

(a) Approval by the Government of the Marshall Islands or the Federated States of Micronesia in accordance with its constitutional processes.

(b) Conduct of the plebiscite referred to in Section 412.

(c) Approval by the Government of the United States in accordance with its constitutional processes.

* * * * *

Article II

Conference and Dispute Resolution

Section 421

The Government of the United States shall confer promptly at the request of the Government of the Marshall Islands or the Federated States of Micronesia and any of those Governments shall confer promptly at the request of the Government of the United States on matters relating to the provisions of this Compact or of its related agreements.

Section 422

In the event the Government of the United States, or the Government of the Marshall Islands or the Federated States of Micronesia, after conferring pursuant to Section 421, determines that there is a dispute and gives written notice thereof, the Governments which are parties to the dispute shall make a good faith effort to resolve the dispute among themselves.

Section 423

If a dispute between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia cannot be resolved

within 90 days of written notification in the manner provided in Section 422, either party to the dispute may refer it to arbitration in accordance with Section 424.

Section 424

Should a dispute be referred to arbitration as provided for in Section 423, an Arbitration Board shall be established for the purpose of hearing the dispute and rendering a decision which shall be binding upon the two parties to the dispute unless the two parties mutually agree that the decision shall be advisory. Arbitration shall occur according to the following terms:

(a) An Arbitration Board shall consist of a Chairman and two other members each of whom shall be a citizen of a party to the dispute. Each of the two Governments which is a party to the dispute shall appoint one member to the Arbitration Board. If either party to the dispute does not fulfill the appointment requirements of this Section within 30 days of referral of the dispute to arbitration pursuant to Section 423, its member on the Arbitration Board shall be selected from its own standing list by the other party to the dispute. Each Government shall maintain a standing list of 10 candidates. The parties to the dispute shall jointly appoint a Chairman within 15 days after selection of the other members of the Arbitration Board. Failing agreement on a Chairman, the Chairman shall be chosen by lot from the standing lists of the parties to the dispute within 5 days after such failure.

(b) The Arbitration Board shall have jurisdiction to hear and render its final determination on all disputes arising exclusively under Articles I, II, III, IV and V of Title One, Title Two, Title Four and their related agreements.

(c) Each member of the Arbitration Board shall have one vote. Each decision of the Arbitration Board shall be reached by majority vote.

(d) In determining any legal issue, the Arbitration Board may have reference to international law and, in such reference, shall apply as guidelines the provisions set forth in Article 38 of the Statute of the International Court of Justice.

(e) The Arbitration Board shall adopt such rules for its proceedings as it may deem appropriate and necessary, but such rules shall not contravene the provisions of this Compact. Unless the parties provide otherwise by mutual agreement, the Arbitration Board shall endeavor to render its decision within 30 days after the conclusion of arguments. The Arbitration Board shall make findings of fact and conclusions of law and its members may issue dissenting or individual opinions. Except as may be otherwise decided by the Arbitration Board, one-half of all costs of the arbitration shall be borne by the Government of the United States and the remainder shall be borne by the other party to the dispute.

Article VI

Definition of Terms

Section 461

For the purpose of this Compact only and without prejudice to the views of the Government of the United States or the Government of the Marshall Islands or the Federated States of Micronesia as to the nature and extent of the jurisdiction under international law of any of them, the following terms shall have the following meanings:

(a) "Trust Territory of the Pacific Islands" means the area established in the Trusteeship Agreement consisting of the administrative districts of Kosrae, Yap, Ponape, the Marshall Islands and Truk as described in Title One, Trust Territory Code, Section 1, in force on January 1, 1979. This term does not include the area of Palau or the Northern Mariana Islands.

(b) "Trusteeship Agreement" means the agreement setting forth the terms of trusteeship for the Trust Territory of the Pacific Islands, approved by the Security Council of the United Nations April 2, 1947, and by the United States July 18, 1947 entered into force July 18, 1947, 61 Stat. 3301, T.I.A.S. 1665, 8 U.N.T.S. 189.

(c) "The Marshall Islands" and "the Federated States of Micronesia" are used in a geographic sense and include the land and water areas to the outer limits of the territorial sea and the air space above such areas as now or hereafter recognized by the Government of the United States.

(d) "Government of the Marshall Islands" means the Government established and organized by the Constitution of the Marshall Islands including all the political subdivisions and entities comprising that Government.

"Government of the Federated States of Micronesia" means the Government established and organized by the Constitution of the Federated States of Micronesia including all the political subdivisions and entities comprising that Government.

* * * * *

(g) "Habitual Residence" means a place of general abode or a principal, actual dwelling place of a continuing or lasting nature; provided, however, that this term shall not apply to the residence of any person who entered the United States for the purpose of fulltime studies as long as such person maintains that status, or who has been physically present in the United States, the Marshall Islands, or the Federated States of Micronesia for less than one year, or who is a dependent of a resident representative, as described in Section 152.

(h) For the purposes of Article IV of Title One of this Compact:

(1) "Actual Residence" means physical presence in the Marshall Islands or the Federated States of Micronesia during eighty-five percent of the period of residency required by Section 141(a)(3); and

(2) "Certificate of Actual Residence" means a certificate issued to a naturalized citizen by the Government which has naturalized him stating that the citizen has complied with the actual residence requirement of Section 141(a)(3).

C. PALAU

(Public Law 99-658, November 14, 1986): Approving the Compact of Free Association Between the United States and the Government of Palau

NOTE.—Public Law 99-658, November 14, 1986, approved the Compact of Free Association Between the United States and the Government of Palau. Section 101 of Public Law 101-219 (December 12, 1989) authorized entry into force of the Compact "subject to the condition that the Compact, as approved by the Congress in Public Law 99-658, is approved by the requisite percentage of the votes cast in a referendum conducted pursuant to the Constitution of Palau, and such approval is free from any legal challenge". On November 9, 1993, the voters of Palau approved the Compact by the requisite number of votes cast in such a referendum. Under a July 15, 1994, Agreement Regarding the Entry Into Force of the Compact of Free Association, the effective date of the Compact is October 1, 1994.

TITLE I—APPROVAL OF COMPACT; INTERPRETATION OF, AND UNITED STATES POLICIES REGARDING, COMPACT; SUPPLEMENTAL PROVISIONS

APPROVAL OF COMPACT OF FREE ASSOCIATION.

SEC. 101. (a) APPROVAL.—The Compact of Free Association set forth in title II of this joint resolution between the United States and the Government of Palau is hereby approved, and Congress hereby consents to the agreements as set forth on pages 154 through 405 of House Document 99-193 of April 9, 1986 (hereafter in this joint resolution referred to as subsidiary or related agreements), as they relate to such Government. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the Compact, to an effective date for and thereafter to implement such Compact, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement.

(b) REFERENCE TO THE COMPACT.—Any reference in this joint resolution to the "Compact" shall be treated as a reference to the Compact of Free Association set forth in title II of this joint resolution.

* * * * *

(d) EFFECTIVE DATE.—(1) The authority of the President to agree to an effective date for the Compact of Free Association between the United States and Palau concurrently with termination of the Trusteeship shall be carried out in accordance with this section, and the Compact shall not take effect until after—

(A) The President has certified to the Congress that the Compact has been approved in accordance with Section 411 (a) and (b) of the Compact, and that

there exists no legal impediment to the ability of the United States to carry out fully its responsibilities and to exercise its rights under Title Three of the Compact, as set forth in this Act, and

(B) enactment of a joint resolution which has been reported by the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Foreign Affairs and other appropriate Committees of the House of Representatives authorizing entry into force of the Compact, and

(C) agreements have been concluded with Palau which satisfy the requirements of Section 102 of Public Law 99-239. For the purpose of this subsection the word "Palau" shall be substituted for "Federated States of Micronesia" whenever it appears in Section 102 of Public Law 99-239.

* * * * *

EXTENSION OF COMPACT OF FREE ASSOCIATION TO PALAU

SEC. 102. (a) The interpretation of and United States Policy Regarding the Compact of Free Association set forth in section 104 of Public Law 99-239 shall apply to the Compact of Free Association with Palau.

(b) The provisions of section 105, except for subsection (i), section 106, section 110, and section 111 (a) and (d) of Public Law 99-239, as amended, shall apply to Palau in the same manner and to the same extent as such sections apply to the Marshall Islands.

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TITLE II—COMPACT OF FREE ASSOCIATION

COMPACT OF FREE ASSOCIATION.

SEC. 201. Compact of Free Association is as follows:

COMPACT OF FREE ASSOCIATION

* * * * *

Article IV

Immigration

Section 141

(a) Any person in the following categories may enter into, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions without regard to paragraphs (14), (20), and (26) of section 212(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(a) (14), (20), and (26):

(1) a person who, on the day preceding the effective date of this Compact, is a citizen of Trust Territory of the Pacific Islands, as defined in Title 53 of the Trust Territory Code in force on January 1, 1979, and has become a citizen of Palau;

(2) a person who acquires the citizenship of Palau, at birth, on or after the effective date of the Constitution of Palau; or

(3) a naturalized citizen of Palau, who has been an actual resident there for not less than five years after attaining such naturalization and who holds a certificate of actual residence.

Such persons shall be considered to have the permission of the Attorney General of the United States to accept employment in the United States.

(b) The right of such persons to establish habitual residence in a territory or possession of the United States may, however, be subjected to nondiscriminatory limitations provided for:

(1) in statutes or regulations of the United States; or

(2) in those statutes or regulations of the territory or possession concerned which are authorized by the laws of the United States.

(c) Section 141(a) does not confer on a citizen of Palau, the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. Section 141(a), however, shall not prevent a citizen of Palau from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

Section 142

(a) Any citizen or national of the United States may enter into, lawfully engage in occupations, and reside in Palau, subject to the right of that Government to deny

entry to or deport any such citizen or national as an undesirable alien. A citizen or national of the United States may establish habitual residence or domicile in Palau only in accordance with the laws of Palau. This subsection is without prejudice to the right of the Government of Palau to regulate occupations in Palau in a nondiscriminatory manner.

(b) With respect to the subject matter of this Section, the Government of Palau shall accord to citizens and nationals of the United States treatment no less favorable than that accorded to citizens of other countries; any denial of entry to or deportation of a citizen or national of the United States as an undesirable alien must be pursuant to reasonable statutory grounds.

Section 143

(a) The privileges set forth in Section 141 shall not apply to any person who takes an affirmative step to preserve or acquire a citizenship or nationality other than that of Palau.

(b) Every person having the privileges set forth in Sections 141 and 142 who possesses a citizenship or nationality other than that of Palau or the United States ceases to have these privileges two years after the effective date of this Compact, or within six months after becoming 21 years of age, whichever comes later, unless such person executes an oath of renunciation of that other citizenship or nationality.

Section 144

(a) A citizen or national of the United States who, after notification to the Government of the United States of an intention to employ such person by the Government of Palau, commences employment with that Government shall not be deprived of his United States nationality pursuant to Section 349 (a)(2) and (a)(4) of the Immigration and Nationality Act, 8 U.S.C. 1481 (a)(2) and (a)(4).

(b) Upon such notification by the Government of Palau, the Government of the United States may consult with or provide information to the notifying Government concerning the prospective employee, subject to the provisions of the Privacy Act, 5 U.S.C. 552a.

(c) The requirement of prior notification shall not apply to those citizens or nationals of the United States who are employed by the Government of Palau on the effective date of this Compact with respect to the positions held by them at that time.

* * * * *

TITLE FOUR

GENERAL PROVISIONS

Article I

Approval and Effective Date

Section 411

This Compact shall come into effect upon mutual agreement between the Government of the United States, acting in fulfillment of its responsibilities as Administering Authority of the Trust Territory of the Pacific Islands, and the Government of Palau, subsequent to completion of the following:

(a) Approval by the Government of Palau in accordance with its constitutional processes;

(b) Approval by the people of Palau in a referendum called on this Compact; and

(c) Approval by the Government of the United States in accordance with its constitutional processes.

Article II

Conference and Dispute Resolution

Section 421

The Government of the United States and the Government of Palau shall confer promptly at the request of the other on matters relating to the provisions of this Compact or of its related agreements.

Section 422

In the event the Government of the United States or the Government of Palau, after conferring pursuant to Section 421, determines that there is a dispute and gives written notice thereof, the Governments shall make a good faith effort to resolve the dispute among themselves.

Section 423

If a dispute between the Government of the United States and the Government of Palau cannot be resolved within 90 days of written notification in the manner provided in Section 422, either party to the dispute may refer it to arbitration in accordance with Section 424.

Section 424

Should a dispute be referred to arbitration as provided for in Section 423, an arbitration board shall be established for the purpose of hearing the dispute and rendering a decision which shall be binding upon the two parties to the dispute unless the two parties mutually agree that the decision shall be advisory. Arbitration shall occur according to the following terms:

(a) An arbitration board shall consist of a Chairman and two other members, each of whom shall be a citizen of a party to the dispute and each of the two parties to the dispute shall appoint one member to the arbitration board. If either party to the dispute does not fulfill the appointment requirements of this Section within 30 days of referral of the dispute to arbitration pursuant to Section 423, its member on the arbitration board shall be selected from its own standing list by the other party to the dispute. Each Government shall maintain a standing list of 10 candidates. The parties to the dispute shall jointly appoint a chairman within 15 days after selection of the other members of the arbitration board. Failing agreement on a chairman, the chairman shall be chosen by lot from the standing lists of the parties to the dispute within 5 days after such failure.

(b) The arbitration board shall have jurisdiction to hear and render its final determination on all disputes arising exclusively under Articles I, II, III, IV and VI of Title One, Title Two, Title Four and their related agreements.

(c) Each member of the arbitration board shall have one vote. Each decision of the arbitration board shall be reached by majority vote.

(d) In determining any legal issue, the arbitration board may have reference to international law and, in such reference, shall apply as guidelines the provisions set forth in Article 38 of the Statute of the International Court of Justice.

(e) The arbitration board shall adopt such rules for its proceedings as it may deem appropriate and necessary, but such rules shall not contravene the provisions of this Compact. Unless the parties provide otherwise by mutual agreement, the arbitration board shall endeavor to render its decision within 30 days after the conclusion of arguments. The arbitration board shall make findings of fact and conclusions of law and its members may issue dissenting or individual opinions. Except as may be otherwise decided by the arbitration board, one-half of all costs of the arbitration shall be borne by the Government of the United States and the remainder shall be borne by the Government of Palau.

* * * * *

Article VI

Definition of Terms

Section 461

For the purpose of this Compact the following terms shall have the following meanings:

(a) "Trust Territory of the Pacific Islands" means the area established in the Trusteeship Agreement consisting of the administrative districts of Kosrae, Yap, Palau, Ponape, the Marshall Islands and Truk as described in Title One, Trust Territory Code, Section 1, in force on January 1, 1979. This term does not include the area of the Northern Mariana Islands.

(b) "Trusteeship Agreement" means the agreement setting forth the terms of trusteeship for the Trust Territory of the Pacific Islands, approved by the Security Council of the United Nations April 2, 1947, and by the United States July 18, 1947, entered into force July 18, 1947, 61 Stat. 3301, T.I.A.S. 1665, 8 U.N.T.S. 189.

(c) "Palau" is used in a geographic sense and includes the land and water areas to the outer limits of the territorial sea and the air space above such areas as now or hereafter recognized by the Government of the United States consistent with the Compact and its related agreements.

(d) "Government of Palau" means the Government established and organized by the Constitution of Palau including all the political subdivisions and entities comprising that Government.

(e) "Habitual Residence" means a place of general abode or a principal, actual dwelling place of a continuing or lasting nature; provided, however, that this term shall not apply to the residence of any person who entered the United States for the purpose of full time studies as long as such person maintains that status, or

who has been physically present in the United States or Palau for less than one year, or who is a dependent of a resident representative, as described in Section 152.

(f) For the purposes of Article IV of Title One of this Compact:

(1) "Actual Residence" means physical presence in Palau during eighty-five percent of the period of residency required by Section 141(a)(3); and

(2) "Certificate of Actual Residence" means a certificate issued to a naturalized citizen by the Government which has naturalized him stating that the citizen has complied with the actual residence requirement of Section 141(a)(3).

VI. FREE-TRADE AGREEMENTS

A. CHAPTER 15 OF THE UNITED STATES-CANADA FREE-TRADE AGREEMENT

Chapter Fifteen

Temporary Entry for Business Persons

Article 1501: General Principle

The provisions of this Chapter reflect the special trading relationship between the Parties, the desirability of facilitating temporary entry on a reciprocal basis and of establishing transparent criteria and procedures for temporary entry, and the need to ensure border security and protect indigenous labour and permanent employment.

Article 1502: Obligations

1. The Parties shall provide, in accordance with Annex 1502.1, for the temporary entry of business persons who are otherwise qualified for entry under applicable law relating to public health and safety and national security.
2. Each Party shall publish its laws, regulations, and procedures relating to the provisions of this Chapter and provide to the other Party such explanatory materials as may be reasonably necessary to enable the other Party and its business persons to become acquainted with them.
3. Any fees for processing applications for temporary entry of business persons shall be limited in amount to the approximate cost of services related thereto.
4. Data collected and maintained by a Party respecting the granting of temporary entry to business persons under this Chapter shall be made available to the other Party in conformity with applicable law.
5. The application and enforcement of measures governing the granting of temporary entry to business persons shall be accomplished expeditiously so as to avoid unduly impairing or delaying the conduct of trade in goods or services, or of investment activities, under this Agreement.

Article 1503: Consultation

The Parties shall establish a procedure, which shall involve the participation of immigration officials of both Parties, for consultation at least once a year respecting

- a) the implementation of this Chapter; and
- b) the development of measures for the purpose of further facilitating temporary entry of business persons on a reciprocal basis and the development of amendments and additions to Annex 1502.1.

Article 1504: Dispute Settlement

1. Subject to paragraph 2, a Party may invoke the provisions of Chapter Eighteen with respect to any matter governed by this Chapter.
2. A Party may not invoke the provisions of Article 1806 or 1807 of this Agreement with respect to the denial of a business person's request for temporary entry or a matter under paragraph 5 of Article 1502 unless:
 - a) the matter involves a pattern of practice; and
 - b) available administrative remedies have been exhausted with respect to the particular matter involving a business person's request for temporary entry provided that such remedies shall be deemed to be exhausted if a final decision in the matter has not been issued within one year of the institution of administrative proceedings and the failure to issue a decision is not attributable to delay caused by the business person.

Article 1505: Relationship to other Chapters

No provision of any other Chapter of this Agreement shall be construed as imposing obligations upon the Parties with respect to the Parties' immigration measures.

Article 1506: Definitions

For purposes of this Chapter,

business person means a citizen of a Party who is engaged in the trade of goods or services or in investment activities; and

temporary entry means entry without the intent to establish permanent residence.

Annex 1502.1**Temporary Entry for Business Persons***United States of America***A. Business Visitors**

1. A business person seeking temporary entry into the United States of America for purposes set forth in Schedule 1, who otherwise meets existing requirements under section 101(a)(15)(B) of the Immigration and Nationality Act, including but not limited to requirements regarding the source of remuneration, shall be granted entry upon presentation of proof of Canadian citizenship and documentation demonstrating that the business person is engaged in one of the occupations or professions set forth in Schedule 1 and describing the purpose of entry.

2. A business person engaged in an occupation or profession other than those listed in Schedule 1 shall be granted temporary entry under section 101(a)(15)(B) of the Immigration and Nationality Act if the business person meets existing requirements for entry.

3. The United States of America shall not require, as a condition for temporary entry under paragraph 1 or 2, prior approval procedures, petitions, labour certification tests, or other procedures of similar effect.

B. Traders and Investors

4. A business person seeking temporary entry into the United States of America to carry on substantial trade in goods or services, in a capacity that is supervisory or executive or involves essential skills, principally between the United States of America and Canada, or solely to develop and direct the operations of an enterprise in which the business person has invested, or is actively in the process of investing, a substantial amount of capital, shall be granted entry under section 101(a)(15)(E) of the Immigration and Nationality Act, and be provided confirming documentation, if the business person meets existing requirements for visa issuance and for entry.

5. The United States of America shall not require, as a condition for temporary entry under paragraph 4, labour certification tests or other procedures of similar effect.

C. Professionals

6. A business person seeking temporary entry into the United States of America to engage in business activities at a professional level who meets existing requirements under section 214(e) of the Immigration and Nationality Act shall be granted entry, and be provided confirming documentation, upon presentation of proof of Canadian citizenship and documentation demonstrating that the business person is engaged in one of the professions set forth in Schedule 2 and describing the purpose of entry.

7. The United States of America shall not require, as a condition for temporary entry under paragraph 6, prior approval procedures, petitions, labour certification tests, or other procedures of similar effect.

D. Intra-Company Transferees

8. A business person seeking temporary entry into the United States of America as an intra-company transferee shall be granted entry under section 101(a)(15)(L) of the Immigration and Nationality Act, and be provided confirming documentation, if the business person:

- a) immediately preceding the time of application for admission has been employed continuously for one year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof;
- b) is seeking temporary entry in order to continue to render services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge; and

- c) meets existing requirements for entry.
9. The United States of America shall not require, as a condition for temporary entry under paragraph 8, labour certification tests or other procedures of similar effect.

Schedule 1

to

Annex 1502.1

Research and Design

- technical, scientific, and statistical researchers conducting independent research, or research for an enterprise located in Canada/the United States.

Growth, Manufacture, and Production

- harvester owner supervising a harvesting crew admitted under applicable law.
- purchasing and production management personnel conducting commercial transactions for an enterprise located in Canada/the United States.

Marketing

- market researchers and analysts conducting independent research or analysis, or research or analysis for an enterprise located in Canada/the United States.
- trade fair and promotional personnel attending a trade convention.

Sales

- sales representatives and agents taking orders or negotiating contracts for goods or services but not delivering goods or providing services.
- buyers purchasing for an enterprise located in Canada/the United States.

Distribution

- transportation operators delivering to the United States/Canada or loading and transporting back to Canada/the United States, with no intermediate loading or delivery within the United States/Canada.
- customs brokers performing brokerage duties associated with the export of goods from the United States/Canada to or through Canada/the United States.

After-Sales Service

- installers, repair and maintenance personnel, and supervisors, possessing specialized knowledge essential to the seller's contractual obligation, performing services or training workers to perform such services, pursuant to a warranty or other service contract incidental to the sale of commercial or industrial equipment or machinery, including computer software, purchased from an enterprise located outside the United States/Canada, during the life of the warranty or service agreement.

General Service

- professionals: with respect to entry into the United States of America, otherwise classifiable under section 101(a)(15)(H)(i) of the Immigration and Nationality Act, but receiving no salary or other remuneration from a United States source; and, with respect to entry into Canada, exempt from the requirement to obtain an employment authorization pursuant to subsection 19(1) of the Immigration Regulations, 1978, but receiving no salary or other remuneration from a Canadian source.
- management and supervisory personnel engaging in commercial transactions for an enterprise located in Canada/the United States.
- computer specialists: with respect to entry into the United States of America, otherwise classifiable under section 101(a)(15)(H)(i) of the Immigration and nationality Act, but receiving no salary or other remuneration from a United States source; and, with respect to entry into Canada, exempt from the requirement to obtain an employment authorization pursuant to subsection 19(1) of the Immigration Regulations, 1978, but receiving no salary or other remuneration from a Canadian source.
- financial services personnel (insurers, bankers, or investment brokers) engaging in commercial transactions for an enterprise located in Canada/the United States.
- public relations and advertising personnel consulting with business associates, or attending or participating in conventions.
- tourism personnel (tour and travel agents, tour guides or tour operators) attending or participating in conventions or conducting a tour that has begun in Canada/the United States.
- translators or interpreters performing services as employees of an enterprise located in Canada/the United States.

Schedule 2

to

Annex 1502.1

(As Shown in 8 C.F.R. § 214.6(d)(2)(ii), as revised March 19, 1991)

- Accountant—baccalaureate degree, C.P.A., or C.A.
- Architect—baccalaureate degree or state/provincial license ¹
- Computer Systems Analyst—baccalaureate degree, or post-secondary diploma and three years experience
- Disaster relief claims adjuster—baccalaureate degree or three years experience in the field of claims adjustment
- Economist—baccalaureate degree
- Engineer—baccalaureate degree or state/provincial license ¹
- Forester—baccalaureate degree or state/provincial license ¹
- Graphics designer—baccalaureate degree, or post-secondary diploma and three years experience
- Hotel manager—baccalaureate degree in Hotel/Restaurant Management, or post-secondary diploma in Hotel-Restaurant Management and three years experience in hotel/restaurant management
- Industrial designer—baccalaureate degree, or post-secondary diploma and three years experience
- Interior designer—baccalaureate degree, or post-secondary diploma and three years experience
- Land surveyor—baccalaureate degree or state/provincial/federal license ¹
- Landscape architect—baccalaureate degree
- Lawyer—member of bar in province or state, or L.L.B., J.D., L.L.L., or B.C.L.
- Librarian—M.L.S., or B.L.S. (for which another baccalaureate degree was a pre-requisite)
- Management consultant—baccalaureate degree or five years experience in consulting or related field
- Mathematician—baccalaureate degree
- Medical/Allied Professionals
 - Dentist—D.D.S., D.M.D., or state/provincial license ¹
 - Dietician—baccalaureate degree or state/provincial license ¹
 - Medical laboratory technologist (Canada)/medical technologist (U.S.)—baccalaureate degree, or post-secondary diploma and three years experience ²
 - Nutritionist—baccalaureate degree
 - Occupational therapist—baccalaureate degree or state/provincial license ¹
 - Pharmacist—baccalaureate degree or state/provincial license ¹
 - Physician (teaching and/or research only)—M.D. or state/provincial license ¹
 - Physio/physical therapist—baccalaureate degree or state/provincial license ¹
 - Psychologist—state/provincial license ¹
 - Recreational therapist—baccalaureate degree
 - Registered nurse—state/provincial license ¹
 - Veterinarian—D.V.M., D.M.V., or state/provincial license ¹
- Range manager (range conservationist)—baccalaureate degree
- Research assistant (working in a post-secondary educational institution)—baccalaureate degree
- Scientific technician/technologist
 - Must work in direct support of professionals in the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology, or physics.
 - Must possess theoretical knowledge of the discipline.
 - Must solve practical problems in the discipline or apply principles of the discipline to basic or applied research.
- Scientist—
 - Agriculturist (agronomist)—baccalaureate degree
 - Animal breeder—baccalaureate degree
 - Animal scientist—baccalaureate degree
 - Apiculturist—baccalaureate degree
 - Astronomer—baccalaureate degree
 - Biochemist—baccalaureate degree
 - Biologist—baccalaureate degree
 - Chemist—baccalaureate degree
 - Dairy scientist—baccalaureate degree

- Entomologist—baccalaureate degree
- Epidemiologist—baccalaureate degree
- Geneticist—baccalaureate degree
- Geochemist—baccalaureate degree
- Geologist—baccalaureate degree
- Geophysicist—baccalaureate degree
- Horticulturist—baccalaureate degree
- Meteorologist—baccalaureate degree
- Pharmacologist—baccalaureate degree
- Physicist—baccalaureate degree
- Plant breeder—baccalaureate degree
- Poultry scientist—baccalaureate degree
- Soil scientist—baccalaureate degree
- Zoologist—baccalaureate degree
- Social worker—baccalaureate degree
- Sylviculturist (forestry specialist)—baccalaureate degree
- Teacher—
 - College—baccalaureate degree
 - Seminary—baccalaureate degree
 - University—baccalaureate degree
- Technical publications writer—baccalaureate degree or post-secondary diploma and three years experience
- Urban planner—baccalaureate degree
- Vocational counselor—baccalaureate degree

¹The terms “state/provincial license” and “state/provincial/federal license” means any document issued by a state, provincial, or federal government as the case may be, or under its authority, which permits a person to engage in a regulated activity or profession.

²Must perform chemical, biological, hematological, immunologic, microscopic and bacteriological tests, procedures, experiments, and analyses in laboratories for diagnosis, treatment, and prevention of disease.

B. CHAPTER 16 OF THE NORTH AMERICA FREE TRADE AGREEMENT

Chapter Sixteen

Temporary Entry for Business Persons

Article 1601: General Principles

Further to Article 102 (Objectives), this Chapter reflects the preferential trading relationship between the Parties, the desirability of facilitating temporary entry on a reciprocal basis and of establishing transparent criteria and procedures for temporary entry, and the need to ensure border security and to protect the domestic labor force and permanent employment in their respective territories.

Article 1602: General Obligations

1. Each Party shall apply its measures relating to the provisions of this Chapter in accordance with Article 1601 and, in particular, shall apply expeditiously those measures so as to avoid unduly impairing or delaying trade in goods or services or conduct of investment activities under this Agreement.
2. The Parties shall endeavor to develop and adopt common criteria, definitions and interpretations for the implementation of this Chapter.

Article 1603: Grant of Temporary Entry

1. Each Party shall grant temporary entry to business persons who are otherwise qualified for entry under applicable measures relating to public health and safety and national security, in accordance with this Chapter, including the provisions of Annex 1603.
2. A Party may refuse to issue an immigration document authorizing employment to a business person where the temporary entry of that person might affect adversely:

- (a) the settlement of any labor dispute that is in progress at the place or intended place of employment; or
 - (b) the employment of any person who is involved in such dispute.
3. When a Party refuses pursuant to paragraph 2 to issue an immigration document authorizing employment, it shall:
- (a) inform in writing the business person of the reasons for the refusal; and
 - (b) promptly notify in writing the Party whose business person has been refused entry of the reasons for the refusal.
4. Each Party shall limit any fees for processing applications for temporary entry of business persons to the approximate cost of services rendered.

Article 1604: Provision of Information

1. Further to Article 1802 (Publication), each Party shall:
- (a) provide to the other Parties such materials as will enable them to become acquainted with its measures relating to this Chapter; and
 - (b) no later than 1 year after the date of entry into force of this Agreement, prepare, publish and make available in its own territory, and in the territories of the other Parties, explanatory material in a consolidated document regarding the requirements for temporary entry under this Chapter in such a manner as will enable business persons of the other Parties to become acquainted with them.
2. Subject to Annex 1604.2, each party shall collect and maintain, and make available to the other Parties in accordance with its domestic law, data respecting the granting of temporary entry under this Chapter to business persons of the other Parties who have been issued immigration documentation, including data specific to each occupation, profession or activity.

Article 1605: Working Group

1. The Parties hereby establish a Temporary Entry Working Group, comprising representatives of each Party, including immigration officials.
2. The Working Group shall meet at least once each year to consider:
- (a) the implementation and administration of this Chapter;
 - (b) the development of measures to further facilitate temporary entry of business persons on a reciprocal basis;
 - (c) the waiving of labor certification tests or procedures of similar effect for spouses of business persons who have been granted temporary entry of more than 1 year under section B, C or D of Annex 1603; and
 - (d) proposed modifications of or additions to this Chapter.

Article 1606: Dispute Settlement

1. A Party may not initiate proceedings under Article 2007 (Commission - Good Offices, Conciliation and Mediation) regarding a refusal to grant temporary entry under this Chapter or a particular case arising under Article 1602(1) unless:
- (a) the matter involves a pattern of practice; and
 - (b) the business person has exhausted the available administrative remedies regarding the particular matter.
2. The remedies referred to in paragraph (1)(B) shall be deemed to be exhausted if a final determination in the matter has not been issued by the competent authority within one year of the institution of an administrative proceeding, and the failure to issue a determination is not attributable to delay caused by the business person.

Article 1607: Relation to Other Chapters

Except for this Chapter, Chapters One (Objectives), Two (General Definitions), Twenty (Institutional Arrangements and Dispute Settlement Procedures) and Twenty-Two (Final Provisions) and Articles 1801 (Contact Points), 1802 (Publication), 1803 (Notification and Provision of Information) and 1804 (Administrative Proceedings), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures.

Article 1608: Definitions

For purposes of this Chapter:

business person means a citizen of a Party who is engaged in trade in goods, the provision of services or the conduct of investment activities;

citizen means "citizen" as defined in Annex 1608 for the Parties specified in that Annex;

existing means "existing" as defined in Annex 1608 for the Parties specified in that Annex; and

temporary entry means entry into the territory of a Party by a business person of another Party without the intent to establish permanent residence.

Annex 1603

Temporary Entry for Business Persons

Section A - Business Visitors

1. Each party shall grant temporary entry to a business person seeking to engage in a business activity set out in Appendix 1603.A.1, without requiring that person to obtain an employment authorization, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry, on presentation of:

- (a) proof of citizenship of a Party;
- (b) documentation demonstrating that the business person will be so engaged and describing the purpose of entry; and
- (c) evidence demonstrating that the proposed business activity is international in scope and that the business person is not seeking to enter the local labor market.

2. Each party shall provide that a business person may satisfy the requirements of paragraph 1(c) by demonstrating that:

- (a) the primary source of remuneration for the proposed business activity is outside the territory of the Party granting temporary entry; and
- (b) the business person's principal place of business and the actual place of accrual of profits, at least predominantly, remain outside such territory.

A Party shall normally accept an oral declaration as to the principal place of business and the actual place of accrual of profits. Where the Party requires further proof, it shall normally consider a letter from the employer attesting to these matters as sufficient proof.

3. Each party shall grant temporary entry to a business person seeking to engage in a business activity other than those set out in Appendix 1603.A.1, without requiring that person to obtain an employment authorization, on a basis no less favorable than that provided under the existing provisions of the measures set out in Appendix 1603.A.3, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry.

4. No Party may:

- (a) as a condition for temporary entry under paragraph 1 or 3, require prior approval procedures, petitions, labor certification tests or other procedures of similar effect; or
- (b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1 or 3.

5. Notwithstanding paragraph 4, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult with a Party whose business persons would be affected with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, or request, with a Party whose business persons are subject to the requirement with a view to its removal.

Section B - Traders and Investors

1. Each party shall grant temporary entry and provide confirming documentation to a business person seeking to:

- (a) carry on substantial trade in goods or services principally between the territory of the Party of which the business person is a citizen and the territory of the Party into which entry is sought, or
- (b) establish, develop, administer or provide advice or key technical services to the operation of an investment to which the business person or the business person's enterprise has committed, or is in the process of committing, a substantial amount of capital,

in a capacity that is supervisory, executive or involves essential skills, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry.

2. No Party may:

- (a) as a condition for temporary entry under paragraph 1, require labor certification tests or other procedures of similar effect; or
- (b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1.

3. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry.

Section C - Intra-Company Transferees

1. Each Party shall grant temporary entry and provide confirming documentation to a business person employed by an enterprise who seeks to render services to that enterprise or a subsidiary or affiliate thereof, in a capacity that is managerial, executive or involves specialized knowledge, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry. A Party may require the business person to have been employed continuously by the enterprise for one year within the three-year period immediately preceding the date of the application for admission.

2. No Party may:

- (a) as a condition for temporary entry under paragraph 1 require labor certification tests or other procedures of similar effect; or
- (b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1.

3. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult with a Party whose business persons would be affected with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with a Party whose business persons are subject to the requirement with a view to its removal.

Section D - Professionals

1. Each Party shall grant temporary entry and provide confirming documentation to a business person seeking to engage in a business activity at a professional level in a profession set out in Appendix 1603.D.1, if the business person otherwise complies with existing immigration measures applicable to temporary entry, on presentation of:

- (a) proof of citizenship of a Party; and
- (b) documentation demonstrating that the business person will be so engaged and describing the purpose of entry.

2. No Party may:

- (a) as a condition for temporary entry under paragraph 1, require prior approval procedures, petitions, labor certification tests or other procedures of similar effect; or
- (b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1.

3. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult with a Party whose business persons would be affected with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with a Party whose business persons are subject to the requirement with a view to its removal.

4. Notwithstanding paragraphs 1 and 2, a Party may establish an annual numerical limit, which shall be set out in Appendix 1603.D.4, regarding temporary entry of business persons of another Party seeking to engage in business activities at a professional level in a profession set out in Appendix 1603.D.1, if the Parties concerned have not agreed otherwise prior to the date of entry into force of this Agreement for those Parties. In establishing such a limit, the Party shall consult with the other Party concerned.

5. A Party establishing a numerical limit pursuant to paragraph 4, unless the Parties concerned agree otherwise:

- (a) shall, for each year after the first year after the date of entry into force of this Agreement, consider increasing the numerical limit set out in Appendix 1603.D.4 by an amount to be established in consultation with the other Party concerned, taking into account the demand for temporary entry under this Section;
- (b) shall not apply its procedures established pursuant to paragraph 1 to the temporary entry of a business person subject to the numerical limit, but may require the business person to comply with its other procedures applicable to the temporary entry of professionals; and
- (c) may, in consultation with the other Party concerned, grant temporary entry under paragraph 1 to a business person who practices in a profession where accreditation, licensing, and certification requirements are mutually recognized by those Parties.
6. Nothing in paragraph 4 or 5 shall be construed to limit the ability of a business person to seek temporary entry under a Party's applicable immigration measures relating to the entry of professionals other than those adopted or maintained pursuant to paragraph 1.
7. Three years after a Party establishes a numerical limit pursuant to paragraph 4, it shall consult with the other Party concerned with a view to determining a date after which the limit shall cease to apply.

Appendix 1603.A.1

Business Visitors

Research and Design

- Technical, scientific and statistical researchers conducting independent research or research for an enterprise located in the territory of another Party.

Growth, Manufacture and Production

- Harvester owner supervising a harvesting crew admitted under applicable law.
- Purchasing and production management personnel conducting commercial transactions for an enterprise located in the territory of another Party.

Marketing

- Market researchers and analysts conducting independent research or analysis or research or analysis for an enterprise located in the territory of another Party
- Trade fair and promotional personnel attending a trade convention.

Sales

- Sales representatives and agents taking orders or negotiating contracts for goods or services for an enterprise located in the territory of another Party but not delivering goods or providing services.
- Buyers purchasing for an enterprise located in the territory of another Party.

Distribution

- Transportation operators transporting goods or passengers to the territory of a Party from the territory of another Party or loading and transporting goods or passengers from the territory of a Party, with no unloading in that territory to the territory of another Party.
- With respect to temporary entry into the territory of the United States, Canadian customs brokers performing brokerage duties relating to the export of goods from the territory of the United States to or through the territory of Canada
- With respect to temporary entry into the territory of Canada, United States customs brokers performing brokerage duties relating to the export of goods from the territory of Canada to or through the territory of the United States.
- Customs brokers providing consulting services regarding the facilitation of the import or export of goods.

After-Sales Service

- Installers, repair and maintenance personnel, and supervisors, possessing specialized knowledge essential to a seller's contractual obligation, performing services or training workers to perform services, pursuant to warranty or other service contract incidental to the sale of commercial or industrial equipment or machinery, including computer software, purchased from a enterprise located outside the territory of the Party into which temporary entry is sought, during the life of the warranty or service agreement.

General Service

- Professionals engaging in a business activity at a professional level in a profession set out in Appendix 1603.D.1.
- Management and supervisory personnel engaging in a commercial transaction for an enterprise located in the territory of another Party.
- Financial services personnel (insurers, bankers or investment brokers) engaging in commercial transactions for an enterprise located in the territory of another Party.
- Public relations and advertising personnel consulting with business associates, or attending or participating in conventions.
- Tourism personnel (tour and travel agents, tour guides or tour operators) attending or participating in conventions or conducting a tour that has begun in the territory of another Party.
- Tour bus operators entering the territory of a Party:
 - (a) with a group of passengers on a bus tour that has begun in, and will return to, the territory of another Party;
 - (b) to meet a group of passengers on a bus tour that will end, and the predominant portion of which will take place, in the territory of another Party; or
 - (c) with a group of passengers on a bus tour to be unloaded in the territory of the Party into which temporary entry is sought, and returning with no passengers or reloading with the group for transportation to the territory of another Party.
- Translators or interpreters performing services as employees of an enterprise located in the territory of another Party.

Definitions

For purposes of this Appendix:

territory of another Party means the territory of a Party other than the territory of the Party into which temporary entry is sought;

tour bus operator means a natural person, including relief personnel accompanying or following to join, necessary for the operation of a tour bus for the duration of a trip; and

transportation operator means a natural person, other than a tour bus operator, including relief personnel accompanying or following to join, necessary for the operation of a vehicle for the duration of a trip.

Appendix 1603.A.3

Existing Immigration Measures

1. In the case of Canada, subsection 19(1) of the *Immigration Regulations*, 1978, SOR/78-172, as amended, made under the *Immigration Act*, R.S.C. 1985, c. I-2, as amended.
2. In the case of the United States, section 101(a)(15)(B) of the *Immigration and Nationality Act*, 1952, as amended.
3. In the case of Mexico, Chapter III of the *General Demography Law* ("Ley General de Poblacion"), 1974, as amended.

Appendix 1603.D.1

Professionals

PROFESSION ¹	MINIMUM EDUCATION REQUIREMENTS AND ALTERNATIVE CREDENTIALS
General	
Accountant	Baccalaureate or Licenciatura Degree; or C.P.A., C.A., C.G.A. or C.M.A.
Architect	Baccalaureate or Licenciatura Degree; or state/provincial license ²
Computer Systems Analyst	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma ³ or Post-Secondary Certificate ⁴ , and three years experience
Disaster Relief Insurance Claims Adjuster (claims adjuster employed by an insurance company located in the territory of a Party, or an independent claims adjuster).	Baccalaureate or Licenciatura Degree, and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims; or three years experience in claims adjustment and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims
Economist	Baccalaureate or Licenciatura Degree
Engineer	Baccalaureate or Licenciatura Degree; or state/provincial license
Forester	Baccalaureate or Licenciatura Degree; or state/provincial license
Graphic Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Hotel Manager	Baccalaureate or Licenciatura Degree in hotel/restaurant management; or Post-Secondary Diploma or Post-Secondary Certificate in hotel/restaurant management, and three years experience in hotel/restaurant management
Industrial Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Interior Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Land Surveyer	Baccalaureate or Licenciatura Degree; or state/provincial/federal license
Landscape Architect	Baccalaureate or Licenciatura Degree
Lawyer (including Notary in the Province of Quebec).	LL.B., J.D., LL.L., B.C.L. or Licenciatura Degree (five years); or membership in a state/provincial bar
Librarian	M.L.S. or B.L.S. (for which another Baccalaureate or Licenciatura Degree was a prerequisite)

NOTE.—See footnotes on last page of this appendix [page [523]]. Footnotes 5 and 6 were previously numbered 1 and 2 on the same page.

PROFESSION ¹**MINIMUM EDUCATION REQUIREMENTS AND ALTERNATIVE CREDENTIALS****General**

Management Consultant	Baccalaureate or Licenciatura Degree; or equivalent professional experience as established by statement or professional credential attesting to five years experience as a management consultant, or five years experience in a field of specialty related to the consulting agreement
Mathematician (including Statistician).	Baccalaureate or Licenciatura Degree
Range Manager/Range Conservationist.	Baccalaureate or Licenciatura Degree
Research Assistant (working in a post-secondary educational institution).	Baccalaureate or Licenciatura Degree
Scientific Technician/Technologist ⁵	Possession of (a) theoretical knowledge of any of the following disciplines: agricultural sciences, astronomy, biology, chemist, engineering, forestry, geology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics; and (b) the ability to solve practical problems in any of those disciplines, or the ability to apply principles of any of those disciplines to basic or applied research
Social Worker	Baccalaureate or Licenciatura Degree
Sylviculturist (including Forestry Specialist).	Baccalaureate or Licenciatura Degree
Technical Publications Writer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Urban Planner (including Geographer).	Baccalaureate or Licenciatura Degree
Vocational Counselor	Baccalaureate or Licenciatura Degree

Medical/Allied Professional

Dentist	D.D.S., D.M.D., Doctor en Odontologia or Doctor en Cirugia Dental; or state/provincial license
Dietitian	Baccalaureate or Licenciatura Degree; or state/provincial license
Medical Laboratory Technologist (Canada)/Medical Technologist (Mexico and the United States) ⁶ .	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Nutritionist	Baccalaureate or Licenciatura Degree
Occupational Therapist	Baccalaureate or Licenciatura Degree; or state/provincial license
Pharmacist	Baccalaureate or Licenciatura Degree; or state/provincial license
Physician (teaching or research only) .	M.D. or Doctor en Medicina; or state/provincial license
Physiotherapist/Physical Therapist	Baccalaureate or Licenciatura Degree; or state/provincial license
Psychologist	State/provincial license; or Licenciatura Degree
Recreational Therapist	Baccalaureate or Licenciatura Degree
Registered Nurse	State/provincial license; or Licenciatura Degree

Medical/Allied Professional

Veterinarian	D.V.M., D.M.V. or Doctor en Veterinaria; or state/provincial license
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Scientist

Agriculturist (including Agronomist) ..	Baccalaureate or Licenciatura Degree
Animal Breeder	Baccalaureate or Licenciatura Degree
Animal Scientist	Baccalaureate or Licenciatura Degree
Apiculturist	Baccalaureate or Licenciatura Degree
Astronomer	Baccalaureate or Licenciatura Degree
Biochemist	Baccalaureate or Licenciatura Degree
Biologist	Baccalaureate or Licenciatura Degree
Chemist	Baccalaureate or Licenciatura Degree
Dairy Scientist	Baccalaureate or Licenciatura Degree
Entomologist	Baccalaureate or Licenciatura Degree
Epidemiologist	Baccalaureate or Licenciatura Degree
Geneticist	Baccalaureate or Licenciatura Degree
Geologist	Baccalaureate or Licenciatura Degree
Geochemist	Baccalaureate or Licenciatura Degree
Geophysicist (including Oceanographer in Mexico and the United States).	Baccalaureate or Licenciatura Degree
Horticulturist	Baccalaureate or Licenciatura Degree
Meteorologist	Baccalaureate or Licenciatura Degree
Pharmacologist	Baccalaureate or Licenciatura Degree
Physicist (including Oceanographer in Canada).	Baccalaureate or Licenciatura Degree
Plant Breeder	Baccalaureate or Licenciatura Degree
Poultry Scientist	Baccalaureate or Licenciatura Degree
Soil Scientist	Baccalaureate or Licenciatura Degree
Zoologist	Baccalaureate or Licenciatura Degree

Teacher

College	Baccalaureate or Licenciatura Degree
Seminary	Baccalaureate or Licenciatura Degree
University	Baccalaureate or Licenciatura Degree

¹ A business person seeking temporary entry under this Appendix may also perform training functions relating to the profession, including conducting seminars.

² "State/provincial license" and "state/provincial/federal license" mean any document issued by a state, provincial or federal government, as the case may be, or under its authority, but not by a local government, that permits a person to engage in a regulated activity or profession.

³ "Post-secondary Diploma" means a credential issued, on completion of two or more years of post-secondary education, by an accredited academic institution in Canada or the United States.

⁴ "Post-Secondary Certificate" means a certificate issued, on completion of two or more years of post-secondary education at an academic institution, by the federal government of Mexico or a state government in Mexico, an academic institution recognized by the federal government or a state government, or an academic institution created by federal or state law.

⁵ A business person in this category must be seeking temporary entry to work in direct support of professionals in agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics.

⁶ A business person in this category must be seeking temporary entry to perform in a laboratory chemical, biological, hematological, immunologic, microscopic or bacteriological tests and analyses for diagnosis, treatment or prevention of disease.

Appendix 1603.D.4**United States**

1. Beginning on the date of entry into force of this Agreement as between the United States and Mexico, the United States shall annually approve as many as 5,500 initial petitions of business persons of Mexico seeking temporary entry under Section D of Annex 1603 to engage in a business activity at a professional level in a profession set out in Appendix 1603.D.1.

2. For purposes of paragraph 1, the United States shall not take into account:
 - (a) the renewal of a period of temporary entry;
 - (b) the entry of a spouse or children accompanying or following to join the principal business person;
 - (c) an admission under section 101(a)(15)(H)(i)(b) of the *Immigration and Nationality Act*, 1952, as may be amended, including the worldwide numerical limit established by section 214(g)(1)(A) of that Act; or
 - (d) an admission under any other provision of section 101(a)(15) of that Act relating to the entry of professionals.
3. Paragraphs 4 and 5 of Section D of Annex 1603 shall apply as between the United States and Mexico for no longer than:
 - (a) the period that such paragraphs or similar provisions may apply as between the United States and any other Party other than Canada or any non-Party; or
 - (b) 10 years after the date of entry into force of this Agreement as between such Parties,whichever period is shorter.

Annex 1604.2

Provision of Information

The obligations under Article 1604(2) shall take effect with respect to Mexico one year after the date of entry into force of this Agreement.

Annex 1608

Country - Specific Definitions

For purposes of this Chapter:

citizen means, with respect to Mexico, a national or a citizen according to the existing provisions of Articles 30 and 34, respectively, of the Mexican Constitution; and **existing** means, as between:

- (a) Canada and Mexico, and Mexico and the United States, in effect on the date of entry into force of this Agreement; and
- (b) Canada and the United States, in effect on January 1, 1989.

VII. DESCRIPTION OF OTHER PROVISIONS RELATING TO IMMIGRATION OR TREATMENT OF ALIENS

(Source: American Law Division, Congressional Research Service, Library of Congress; as of January 1, 1995)

A. MILITARY SERVICE

1. **ENLISTMENT.**—Sections 3253 and 8253 of title 10, United States Code, prohibit original peacetime enlistment in the Army or the Air Force, respectively, of anyone who is not a citizen or lawful permanent resident alien.

2. **MILITARY SELECTIVE SERVICE ACT.**—Section 3 of the Act (50 U.S.C. App. 453(a)) requires all male residents to register other than lawfully admitted nonimmigrant aliens. Under the final proviso of section 5(a)(1) (50 U.S.C. App. 455(a)(1)), a local board may not order the induction of an alien who has not resided in the United States at least one year. Section 6(a)(1) (50 U.S.C. App. 456(a)(1)), in the proviso to the first sentence, defers the induction of a permanent resident alien who qualifies for but who has waived nonimmigrant status as a diplomat or treaty alien (viz., subparagraph (A), (E), or (G) of section 101(a)(15) of the INA) for as long as the alien holds the diplomatic or treaty status job.

3. **OTHER SERVICE.**—There are numerous other restrictions on service by aliens in the Armed Forces and related agencies. For example, citizenship is a requirement for original appointment as a commissioned officer (10 U.S.C. 532(a)), appointment to the Naval Academy (10 U.S.C. 6958(c)), appointment as an aviation cadet (10 U.S.C. 8257(b)), appointment as an officer in the National Guard (32 U.S.C. 313(b)(1)), and appointment in the Commissioned Corps of the Public Health Service. Service in the Coast Guard Reserve is restricted to citizens of the United States or its territories or possessions (14 U.S.C. 706). Similarly, only citizens and nationals are eligible for appointment to the Merchant Marine Academy (46 U.S.C. App. 1295b(b)). Service in the reserves is restricted to citizens and permanent resident aliens (10 U.S.C. 510(b), 591(b)(1)).

B. SOCIAL SECURITY ACT PROVISIONS

1. OASDI

OLD AGE, SURVIVORS, AND DISABILITY INSURANCE (OASDI).—Even though OASDI extends to all individuals who engaged in covered employment, the ability of certain aliens to receive benefits is limited. Unless the alien subsequently has been admitted as a permanent resident, an alien who has been deported for reasons other than violation of nonimmigrant status or alien smuggling is ineligible for benefits nor is a lump sum benefit payable on the alien's death (42 U.S.C. 402(n)). Payments to an otherwise eligible alien who has been outside the United States for longer than 6 months may be terminated unless the alien qualifies under an exception to the nonpayment rule (42 U.S.C. 402(t)). Additionally, nonresident dependents and survivors cannot receive benefits for more than 6 months unless the relationship upon which the claim is based existed for at least 5 years during which time the dependent or survivor lived in the U.S. (42 U.S.C. 402(t)(11)).

2. SOCIAL SECURITY ACCOUNT NUMBER

SOCIAL SECURITY ACCOUNT NUMBERS.—Section 205(c)(2)(B) of the Act (42 U.S.C. 405(c)(2)(B)) limits the issuance of social security account numbers to citizens and those aliens whose status does not prohibit them from engaging in employment. By regulation (20 C.F.R. 422.104), social security numbers may be assigned for nonwork purposes to certain resident and nonresident aliens who are not authorized to work in the United States.

3. AFDC

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC).—Section 402(a)(33) of the Act (42 U.S.C. 602(a)(33)) requires that under a State AFDC plan, in order for an individual to be a dependent child or for his or her needs to be taken into account, the individual must be a citizen, an alien lawfully admitted for permanent residence, or otherwise permanently residing in the United States under color of law (including residence as an asylee, refugee, or parolee). The category of aliens “permanently residing in the United States under color of law” generally encompasses aliens who are living in the United States with the knowledge and permission of INS and whose departure the INS does not contemplate enforcing. However, under section 244A of the INA (8 U.S.C. 1254a), aliens granted temporary protected status are deemed not to be residing here permanently under color of law. In addition, aliens who become legalized aliens under section 245A of the INA (8 U.S.C. 1255a) are not eligible for benefits for 5 years after obtaining lawful temporary status (see section 245A(h)(1)(A)(i)). Under section 210(f) of the INA (8 U.S.C. 1160), special agricultural workers also are ineligible for benefits for five years after obtaining lawful temporary status. Furthermore, section 415 of the Social Security Act (42 U.S.C. 615) provides that a portion of an individual’s income and resources (and those of the individual’s spouse) will be taken into account in determining the AFDC eligibility of an alien for whom the individual filed an affidavit of support or similar document. This sponsor-to-alien deeming ends three years after the alien’s entry. AFDC eligibility is subject to verification of immigration status under the “SAVE” program (see section 1137(d) of the Social Security Act, 42 U.S.C. 1320b-7(d), shown below); funding for 50 percent of the costs of implementing and operating the SAVE program under AFDC is contained in section 403(a)(3) of the Social Security Act (42 U.S.C. 603(a)(3)).

4. SYSTEM FOR ALIEN VERIFICATION OF ELIGIBILITY (SAVE)

SYSTEM FOR ALIEN VERIFICATION OF ELIGIBILITY (SAVE).—Section 121(a) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603) added a requirement (effective October 1, 1988, unless otherwise waived) of various Federal and State assistance programs (including AFDC, medicaid, food stamps, unemployment compensation, educational assistance, and housing assistance) that a verification be made of immigration status as a condition of eligibility. These requirements are contained in subsections (d) & (e) of section 1137 of the Social Security Act (42 U.S.C. 1320b-7) (for AFDC, medicaid, unemployment compensation, and food stamps); subsections (d) through (f) of section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) (for housing assistance programs); and subsections (h) through (j) of section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091) (for title IV educational assistance). For text, see Appendix II.B.2. Subsection (b) of section 121 of Pub. L. 99-603 amended a variety of laws to provide 100 percent reimbursement for costs of implementation and operation of the immigration status verification system. Pub. L. 103-210 reduced the reimbursement rate under AFDC from 100 percent to 50 percent. For text of subsections (c) and (d) of that section, regarding effective dates and GAO reports, see Appendix II.B.1.

5. SSI

SUPPLEMENTAL SECURITY INCOME PROGRAM (SSI).—Section 1614(a)(1)(B) of the Social Security Act (42 U.S.C. 1382c(a)(1)(B)) limits eligibility under the Supplemental Security Income program to citizens, lawful permanent resident aliens, and aliens permanently residing in the United States under color of law (including refugees and parolees). The category of aliens “permanently residing in the United States under color of law” generally encompasses aliens who are living in the United States with the knowledge and permission of INS and whose departure the INS does not contemplate enforcing (See 20 C.F.R. 416.1618(b)). However, under section 244A of the INA, aliens granted temporary protected status are deemed not to be residing here permanently under color of law. By contrast, aliens who become legalized aliens under section 245A of the INA and special agricultural workers under section 210 of the INA are eligible for SSI benefits without being subject to a 5-year benefit disqualification period. Sections 1614(f) and 1621 of the Act (42 U.S.C. 1382c(f), 1382j) provide that for purposes of determining eligibility for and the amount of benefits under the SSI program, an individual’s income and resources (and those of the individual’s spouse) are attributed to an alien if the individual filed an affidavit of support or similar document on the alien’s behalf. Pub. L. 103-152 provides that until fiscal year 1997, sponsor-to-alien deeming applies to an alien

applying for benefits within 5 years of entry. Beginning in fiscal year 1997, the deeming period is to revert to 3 years..

6. MEDICARE

MEDICARE.—An individual who is over 65 years of age and who is otherwise not entitled to receive medicare benefits through past withholding of wages is eligible to enroll in the medicare program under sections 1818(a) and 1836 of the Social Security Act (42 U.S.C. 1395–2(a), 1395o) if the individual is a resident of the United States and either is a citizen or is an alien “lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month in which he applies for enrollment”.

7. MEDICAID

MEDICAID.—Except for emergency medical treatment (a term that includes emergency labor and delivery), section 1903(v) of the Social Security Act (42 U.S.C. 1396b(v)) prohibits payments under Medicaid for aliens who are neither lawfully admitted for permanent residence nor otherwise permanently residing in the United States under color of law. The category of aliens “permanently residing in the United States under color of law” generally encompasses aliens who are living in the United States with the knowledge and permission of INS and whose departure the INS does not contemplate enforcing. However, under section 244A of the INA (8 U.S.C. 1254a), aliens granted temporary protected status are deemed not to be residing here permanently under color of law. In addition adult aliens who become legalized aliens under section 245A of the INA (8 U.S.C. 1255a) are not eligible for non-emergency or non-pregnancy-related benefits for 5 years after obtaining lawful temporary status (see section 245A(h)(1)(A)(ii), (3)). Medicaid eligibility is subject to verification of immigration status under the “SAVE” program (see section 1137(d) of the Social Security Act, shown in Appendix II.B.2.); funding for 100 percent of the costs of implementing and operating the SAVE program under medicaid is contained in section 1903(a)(4) of the Social Security Act (42 U.S.C. 1396b(a)(4)).

C. LABOR LAW

1. **NATIONAL LABOR RELATIONS ACT.**—Case law has established that all aliens, including undocumented aliens, are “employees” under the National Labor Relations Act and that they are protected under the NLRA against unfair labor practices (*Sure-Tan v. NLRB*, 467 U.S. 883 (1984)). Enforcement of unfair labor practices generally protects the rights of employees to organize and bargain collectively (29 U.S.C. 158). Though all aliens have rights under the NLRA, the remedies available for violation of those rights, particularly backpay, may be restricted for undocumented aliens, at least those outside of the country during the backpay period.

2. **FAIR LABOR STANDARDS ACT OF 1938.**—Case law has held that even undocumented aliens are “employees” within the minimum wage and maximum hours provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. 206, 207) (*Patel v. Quality Inn South*, 846 F.2d 700 (11th Cir. 1988)). Numerous types of employment are exempt from both the minimum wage and maximum hour requirements, including aquacultural and fishing labor, certain sales and retail employment, certain temporary nonmigratory agricultural labor, and agricultural labor for employers using less than 500 man-days of agricultural labor (29 U.S.C. 213(a)). Certain other employment, including certain other labor in agriculture or transportation, is exempt from maximum hour requirements (29 U.S.C. 213(b)).

3. **MIGRANT AND SEASONAL AGRICULTURAL WORKERS PROTECTION ACT (MASAWPA).**—The Migrant and Seasonal Agricultural Workers Protection Act requires that (with limited exemptions including small businesses and family farms) farm labor contractors, agricultural employers, and agricultural association provide a variety of protections to workers who are seasonal or migrants. Workers must be provided notice when recruited of the place and nature of the labor and the compensation to be paid (29 U.S.C. 1821(a), 1831(a)). Covered workers also must be paid when due (29 U.S.C. 1822(a), 1832(a)), be provided with an itemized statement of wages and deductions (29 U.S.C. 1821(d), 1831(c)), must not be required to obtain supplies or services exclusively from the employer (29 U.S.C. 1822(b), 1832(b)), and must be given transportation that is safe (29 U.S.C. 1841). Migrants must be provided housing meeting certain minimum standards (29 U.S.C. 1823).

4. **TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.**—The equal employment provision of the Civil Rights Act of 1964 do not prohibit private discrimination in employment on the basis of alienage (42 U.S.C. 2000e-2). Relief for private employment discrimi-

nation on the basis of alienage is limited to the aliens and acts covered in section 274B of the INA (8 U.S.C. 1324b). However, aliens are protected against unfair employment practices if they are discriminated against on the basis of race, color, religion, sex, or national origin.

D. FOOD STAMP ACT OF 1977

Section 6(f) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)) denies eligibility for food stamps to an individual unless the individual is "either (A) a citizen or (B) an alien lawfully admitted for permanent residence as an immigrant . . . , excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country; or (C) an alien who . . . is deemed to be lawfully admitted for permanent residence [under the registry provisions of section 249 of the INA (8 U.S.C. 1259)]; or (D) an alien who has qualified . . . [as a refugee or asylee]; or (E) an alien who is lawfully present in the United States as a result of an exercise of [the Attorney General's parole authority]; or (F) an alien within the United States as to whom the Attorney General has withheld deportation pursuant to section 243 of the Immigration and Nationality Act (8 U.S.C. 1253(h)). No aliens other than the ones specifically described in clauses (B) through (F) of this subsection shall be eligible to participate in the food stamp program as a member of any household. The income (less a pro rata share) and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection shall be considered in determining the eligibility and the value of the allotment of the household of which such individual is a member." Section 5(i) of the Act (7 U.S.C. 2014(i)) provides that income and resources of an individual (and those of the individual's spouse) are deemed to be available to an alien for 3 years after entry if the individual executed an affidavit of support or similar document on the alien's behalf. In addition, section 11(e)(17) of the Act (7 U.S.C. 2020(d)(17)), requires that States participating in the food stamp program must provide for "immediate reporting to the Immigration and Naturalization Service by the State agency of a determination by personnel responsible for the certification or recertification of households that any member of a household is ineligible to receive food stamps because that member is present in the United States in violation of the Immigration and Nationality Act." Food stamp eligibility is subject to verification of immigration status under the "SAVE" program (see section 1137(d) of the Social Security Act, shown in appendix II.B.2.) and section 11(e)(19) of the Food Stamp Act of 1977, 7 U.S.C. 2020(e)(19); funding for 100 percent of the costs of implementing and operating the SAVE program under the food stamp program is contained in section 16(j) of the Food Stamp Act of 1977 (7 U.S.C. 2025(j)). For special eligibility provisions relating to legalized aliens and certain special agricultural replenishment workers, see sections 210A(d)(6) and 245A(h)(1)(A)(iii) of the INA.

E. FEDERAL EMPLOYMENT

1. CIVIL SERVICE EMPLOYMENT.—Under the authority of section 3301 of title 5, United States Code, the President has, by Executive Order (5 C.F.R. 7.4), required that an individual be a citizen or national of the United States to take the examination for or be appointed to the competitive service; the order permits the Office of Personnel Management, in order to promote efficiency of the service in specific cases or for temporary appointments, to authorize appointment of aliens.

2. LIMITATIONS IN APPROPRIATIONS ACTS.—Virtually every fiscal year Congress enacts a general provision (shown at 5 U.S.C. 3101 note) that prohibits the use of any appropriation to pay compensation to an officer or employee of the United States whose post of duty is in the continental United States unless the officer or employee is a citizen or among certain specified groups of aliens. The most recent version of this restriction is section 606 of the Treasury, Postal Service, and General Government Appropriations Act, 1995 (Public Law, 103-329, 108 Stat. 2416-7), which provides as follows:

SEC. 606. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior

to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the countries of the former Soviet Union, or the Baltic countries lawfully admitted to the United States for permanent residence, (5) South Vietnamese, Cambodian and Laotian refugees paroled in the United States after January 1, 1975, or (6) nationals of the People's Republic of China that qualify for adjustment of status pursuant to the Chinese Student Protection Act of 1992: *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his or her status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than \$4,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or international broadcasters employed by the United States Information Agency, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

3. FOREIGN SERVICE AND PEACE CORPS.—Aliens cannot serve as members of the Peace Corps or Foreign Service (22 U.S.C. 2504(a), 3941(a)).

4. CENSUS.—Section 22 of title 13, United States Code, requires all permanent employees and officers of the Census Bureau to be United States citizens.

5. SPECIFIC STATUTORY AUTHORITY.—Some provisions of law specifically permit aliens to be paid or employed in certain positions. Of these, some are conditioned, at least in part, on the unavailability of citizens, including provisions on hiring for technical or scientific work for the Navy (10 U.S.C. 7473), filling the up to 15 positions in the Library of Congress made exempt from appropriations act restrictions (2 U.S.C. 169 (premised on the unavailability of persons qualifying under appropriations act restrictions)), hiring scientists and engineers at the National Institutes of Standards (15 U.S.C. 278g(d)), hiring for scientific or technical work for the Smithsonian Institution (20 U.S.C. 46a), hiring translators (22 U.S.C. 1474(1)), and hiring language instructors, linguists, and other training specialists for Foreign Service training (22 U.S.C. 4024(a)(4)(B)).

Others provisions do not premise employing aliens on the unavailability of citizens, including provisions on hiring scientists, experts technicians or other professionals in military research and development (10 U.S.C. 1584), reimbursing the State Department for hiring alien employees for the Library of Congress (2 U.S.C. 143a), hiring with respect to the international activities of the State Department not otherwise provided for (22 U.S.C. 2672(b)(1)), hiring special consultants to the Public Health Service (42 U.S.C. 209(h)), and hiring by NASA (42 U.S.C. 2473(c)(10)).

F. HOUSING ASSISTANCE PROGRAMS

Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(a)) states that assistance under the United States Housing Act of 1937 (assisted public housing and "section 8" housing), sections 235 (home ownership for lower income families) and 236 (rental and cooperative housing for lower income families) of the National Housing Act, and section 101 of the Housing and Urban Development Act of 1965 (rent supplements for lower income families) is not available to an alien unless the alien (1) is a lawfully admitted permanent resident, (2) has qualified for permanent residency under the registry provision of section 249 of the INA, (3) is a refugee or asylee, (4) has been admitted under the Attorney General's parole authority, (5) has had deportation withheld under section 243(h) of INA on the basis of prospective persecution, or (6) has been admitted for temporary or permanent residency under the legalization provisions of section 245A of the INA.

G. LEGAL SERVICES PROGRAM

By reference to earlier appropriations Acts, section 403(b)(1) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995 (P.L. 103-317) prohibits the expenditure of any funds appropriated for the Legal Services Corporation for the purpose of providing legal services to or on behalf of any alien who is not (1) a lawfully admitted permanent resident alien, (2) the spouse, parent, or unmarried child under 21 of a U.S. citizen with an appli-

cation for adjustment to permanent residency pending, or (3) an asylee, refugee (including a conditional entrant under former section 203(a)(7) of the INA), or alien whose deportation has been withheld under section 243(h) of the INA on grounds of prospective persecution.

H. EDUCATIONAL ASSISTANCE PROGRAMS

1. **ELEMENTARY AND SECONDARY EDUCATION.**—There is no restriction under either the Education Consolidation and Improvement Act of 1981 or the Elementary and Secondary Education Act of 1965 relating to citizenship of students who are otherwise served by educational agencies.

2. **HIGHER EDUCATION.**—Section 484(a)(5) of the Higher Education Act (20 U.S.C. 1091(a)(5)) restricts eligibility for assistance under title IV of the Act to (1) citizens, (2) nationals, (3) permanent residents of Guam, the Northern Marianas, or the Trust Territory of the Pacific Islands, and (4) permanent residents of the United States here for other than a temporary purpose and able to provide evidence from INS of an intent to become a permanent resident. This last category would appear to comprehend, among other aliens, lawfully admitted permanent residents, asylees, refugees (including conditional entrants under former section 203(a)(7) of the INA), humanitarian or indefinite parolees, and aliens legalized under the provisions of IRCA. The Federal major title IV programs are Federal Pell Grants, Federal Work-Study, Federal Stafford (Guaranteed) Loans, Federal Perkins Loans, Federal PLUS Loans, and Federal Supplemental Educational Opportunity Grants. Eligibility for grants, loans, and work assistance under title IV of the Higher Education Act of 1965 is subject to verification of immigration status under section 484(h) of such Act (20 U.S.C. 1091(h)); funding for 100 percent of the costs of implementing and operating the SAVE program under such title is contained in section 489(a) of such Act (20 U.S.C. 1096(a)).

I. UNEMPLOYMENT COMPENSATION PROGRAM

State laws implementing the unemployment compensation program must restrict the payment of compensation to aliens to those aliens who were lawfully admitted for permanent residence when employed, were lawfully present for the purpose of engaging in the employment on which unemployment (FUTA) taxes were paid, or were residing permanently in the United States under color of law when employed (section 3304(a)(14)(A) of the Internal Revenue Code of 1986). State case law at times has interpreted "permanently residing under color of law" more broadly for unemployment compensation purposes than that term has been interpreted by Federal courts for purposes of AFDC. Also, nonimmigrants are eligible for compensation under the second eligibility test if they were authorized to work and their jobs were subject to unemployment taxes. However, the wages of certain nonimmigrants specifically are exempt from unemployment taxes, including students and exchange visitors (F, J, M, or Q visa holders) who are performing work to carry out the purposes of their nonimmigrant classifications and H-2A agricultural workers with respect to work performed prior to 1995 (sections 3306(c)(1)(B) and 3306(c)(19) of the Code). An alien otherwise eligible for benefits nevertheless may be disqualified if not "able and available" to work. At least one court has denied benefits to an alien who was not authorized to work at the time of application even though the alien was seeking benefits respect to previous work that was authorized. Unemployment compensation eligibility is subject to verification of immigration status under the "SAVE" program (see section 1137(d) of the Social Security Act, shown in Appendix II.B.2); funding for 100 percent of the costs of implementing and operating the SAVE program under unemployment compensation is contained in section 302(a) of the Social Security Act (42 U.S.C. 502(a)).

J. INCOME TAX TREATMENT OF ALIENS

1. **GENERAL RULE.**—Resident aliens (as defined for tax purposes) generally are taxed under the Internal Revenue Code of 1986 on their worldwide income (as are citizens). Nonresident aliens generally are taxed on their income from sources within the United States, with special rates applying to nonbusiness income (section 871 of the Code). The Internal Revenue Code considers an alien to be a resident if the alien either is a lawful permanent resident alien under the INA or has a substantial presence in the United States (section 7701(b) of the Code).

2. **EXCEPTIONS.**—There are numerous exceptions to the general rule. For example, the taxability or rate of taxation of the United States income of nonresident aliens

may be affected under one of the many tax treaties to which the United States is a party. Also, an alien employed in the United States by a foreign country or international organization also may be exempt from taxation on income from that employment either under treaty or pursuant to reciprocal practice. Resident aliens, along with nonresidents, are exempt from taxation of scholarships and grants paid by a foreign source.

3. **REQUIRED FILING OF RETURNS.**—Section 6851(d)(1) of the Internal Revenue Code of 1986 provides that “[s]ubject to such exceptions as may, by regulation, be prescribed by the Secretary [of the Treasury] . . . (1) [n]o alien shall depart from the United States unless he first procures from the Secretary a certificate that he has complied with all obligations imposed upon him by the income tax laws.” In addition, section 6039E of the Code requires each alien who applies to be an immigrant to include, with the application, the alien’s taxpayer identification number and information on recent tax filings.

K. LICENSE RESTRICTIONS

1. **ATOMIC ENERGY ACT OF 1954.**—Under sections 103d. and 104d. of the Act (42 U.S.C. 2133(d), 2134(d)), aliens cannot hold licenses for the commercial, medical, or industrial use of nuclear material.

2. **U.S. VESSELS.**—Only U.S. citizens may serve as masters, chief engineers, or officers in charge of a deck watch or engineering watch on U.S. documented vessels (46 U.S.C. 8103(a)). Additionally, there are mandatory citizenship percentages for the crews of documented vessels. Subject to exceptions and waivers, all unlicensed seamen on a documented vessels must be citizens or permanent resident aliens, the maximum number of permanent residents being capped at 25 percent (46 U.S.C. 8103(b)). Separate provisions require that all unlicensed seamen on fishing, fish processing, or fish tender vessels be U.S. citizens, aliens lawfully admitted for permanent residents, or aliens allowed to be employed under the INA (46 U.S.C. 8103(i)), the maximum number of seamen not either citizens or permanent residents being capped at 25 percent. The citizenship levels for vessels benefiting from a construction or operating differential subsidy are 100 percent on departure for nonpassenger vessels and 90 percent on departure for passenger vessels (46 U.S.C. 8103(c), (d)).

3. **BROADCAST AND COMMON CARRIER LICENSES.**—Section 310(b) of the Communications Act of 1934 (47 U.S.C. 310(b)) prohibits the issuance of broadcast, common carrier, or aeronautical fixed or en route radio station licenses to aliens and section 303(l)(1) of the Act (47 U.S.C. 303(l)(1)) generally limits operator’s licenses to persons eligible to work in the United States. Separate provisions (47 U.S.C. 303(l)(3), 310(c)) permit allowing aliens licensed abroad as amateur radio operators to operate in the United States the amateur radio stations licensed by their governments.

4. **AIRLINE PILOTS.**—Under section 602(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1422(b)), the Secretary of Transportation has the discretionary authority to prohibit or restrict the issuance to aliens of airline transport pilot licenses.

5. **CUSTOMS BROKERS.**—Aliens may not be licensed as customs brokers (19 U.S.C. 1641(b)).

L. EMERGENCY ASSISTANCE

The Emergency Supplemental Appropriations and Rescissions, 1994 (P.L. 103–211, 108 Stat. 40, Feb. 12, 1994) provided funds primarily for disaster relief related to the January 1994 California earthquake, earlier flooding in the Midwest, and other natural disasters. Section 403 of that Act provides as follows:

PROHIBITION OF BENEFITS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES

SEC. 403. None of the funds made available in this Act may be used to provide any benefit or assistance to any individual in the United States when it is known to a Federal entity or official to which the funds are made available that—

- (1) the individual is not lawfully within the United States;
- (2) the direct Federal assistance or benefit to be provided is other than search and rescue; emergency medical care; emergency mass care; emergency shelter; clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services; warning of further risks or hazards; dissemination of public information and assistance regarding health and safety measures; the provision of food, water, medicine,

and other essential needs, including movement of supplies or persons; and reduction of immediate threats to life, property and public health and safety;

(3) temporary housing assistance provided in this Act may be made available to individuals and families for a period of up to 90 days without regard to the requirements of subsection (4);

(4) immediately upon the enactment of this Act, other than for the purposes set forth in subsections (2) and (3) of this section, any Federal entity or official who makes available funds under this Act shall take reasonable steps to determine whether any individual or company seeking to obtain such funds is lawfully within the United States;

(5) in no case shall such Federal entity, official or their agent discriminate against any individual with respect to filing, inquiry, or adjudication of an application for funding on the bases of race, color, creed, handicap, religion, sex, sexual orientation, national origin, citizenship status or form of lawful immigration status; and

(6) the implementation of this section shall not require the publication or implementation of any intervening regulations.

M. ASSISTANCE FOR UNDOCUMENTED IMMIGRANTS

§ 511 of Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995 (P.L. 103-333, Sept. 30, 1994, 108 Stat. 2573) provides as follows:

SEC. 511. None of the funds appropriated or otherwise made available under this Act may be obligated in violation of existing Federal law or regulation already prohibiting such benefit or assistance. None of the funds appropriated under this Act may be used by any Federal official, or any State or local official, to induce undocumented immigrants to apply for Federal benefits for which such officials know or should know such undocumented immigrants are not eligible. In no case, however, shall Federal, State, or local officials be penalized for efforts to ensure that eligible persons are not excluded from participation in, denied the benefits of, or subjected to discrimination by any program receiving funds under this Act, on the grounds of race, color, or national origin-based traits, including language. Each State agency and each other entity administering a program under which verification of immigration status is required by section 121 of the Immigration Reform and Control Act of 1986 shall participate in the system for the verification of such status established by the Commissioner of the Immigration and Naturalization Service pursuant to section 121(c) of that Act, unless an alternative system is available and employed for such purposes which is found to meet the criteria for waiver under section 121(c)(4).

N. MISCELLANEOUS

1. JURY DUTY.—Aliens may not serve on Federal juries (28 U.S.C. 1865(b)(1)).

2. FEDERAL PRIVACY ACT.—Under section 552a(a)(2) of title 5, United States Code, only citizens and lawful permanent resident aliens are entitled to rights under the Privacy Act.

3. POLITICAL CONTRIBUTIONS.—Aliens not lawfully admitted for permanent residence are prohibited from making contributions to U.S. political campaigns (section 319 of the Federal Elections Campaign Act of 1971, 2 U.S.C. 441e).

4. PUBLIC WORKS PROJECT GRANTS.—Grants for certain local public works projects are conditioned on the applying State or local government certifying that no contract will be granted to a contractor who will employ illegal aliens on the project (42 U.S.C. 6705(e)(2)).

5. MILITARY AVIATION CONTRACTS.—Absent the consent of the Secretary of the appropriate military department, an alien employee of a contractor furnishing or constructing aircraft, aircraft parts, or aeronautical accessories may not have access to plans or specifications for the contracted items or participate in trials under the contract (10 U.S.C. 2279).

6. RELATIONSHIP WITH PUBLIC HEALTH SERVICE.—The Public Health Service Act provides in sections 322, 325, and 2602 (42 U.S.C. 249, 252, 300aaa-1) for cooperative arrangements between the Public Health Service and the Immigration and Naturalization Service in the use of their hospitals and in the medical inspection of aliens within and outside the United States.

7. CITIZENSHIP DAY (SEPTEMBER 17TH).—September 17th of each year is designated as "Citizenship Day" under the first section of the Act of Feb. 29, 1952 (36

U.S.C. 153), with a Presidential proclamation and appropriate ceremonies in schools, churches, and other suitable places.

O. BRACERO PROGRAM (EXPIRED DECEMBER 31, 1964)

[HISTORICAL NOTE.—The so-called “Bracero” program derived from agricultural exchange programs operated under Executive agreements between the United States and Mexico before and during World War II. In Public Law 78 (Act of July 12, 1951), Congress amended the Agricultural Act of 1949 by adding a new title V; this provided a statutory basis for the importation of agricultural workers from Mexico. This title was first intended to apply to employment only up to December 31, 1953, but was extended several times by Congress until it expired on December 31, 1964. This title, previously codified as subchapter IV of chapter 35A of title 7, United States Code, is shown below. For further information on this and other temporary worker programs, see “Temporary Worker Programs: Background and Issues”, Senate Judiciary Committee Print (February 1980).]

* * * * *

TITLE V—AGRICULTURAL WORKERS

SEC. 501. For the purpose of assisting in such production of agricultural commodities and products as the Secretary of Agriculture deems necessary, by supplying agricultural workers from the Republic of Mexico (pursuant to arrangements between the United States and the Republic of Mexico or after every practicable effort has been made by the United States to negotiate and reach agreement on such arrangements), the Secretary of Labor is authorized—

(1) to recruit such workers (including any such workers who have resided in the United States for the preceding five years, or who are temporarily in the United States under legal entry);

(2) to establish and operate reception centers at or near the places of actual entry of such workers into the continental United States for the purpose of receiving and housing such workers while arrangements are being made for their employment in, or departure from, the continental United States;

(3) to provide transportation for such workers from recruitment centers outside the continental United States to such reception centers and transportation from such reception centers to such recruitment centers after termination of employment;

(4) to provide such workers with such subsistence, emergency medical care, and burial expenses (not exceeding \$150 burial expenses in any one case) as may be or become necessary during transportation authorized by paragraph (3) and while such workers are at reception centers;

(5) to assist such workers and employers in negotiating contracts for agricultural employment (such workers being free to accept or decline agricultural employment with any eligible employer and to choose the type of agricultural employment they desire, and eligible employers being free to offer agricultural employment to any workers of their choice not under contract to other employers);

(6) to guarantee the performance by employers of provisions of such contracts relating to the payment of wages or the furnishing of transportation.

SEC. 502. No workers shall be made available under this title to any employer unless such employer enters into an agreement with the United States—

(1) to indemnify the United States against loss by reason of its guaranty of such employer's contracts;

(2) to reimburse the United States for essential expenses incurred by it under this title, except salaries and expenses of personnel engaged in compliance activities, in amounts not to exceed \$15 per worker; and

(3) to pay to the United States, in any case in which a worker is not returned to the reception center in accordance with the contract entered into under section 501(5), an amount determined by the Secretary of Labor to be equivalent to the normal cost to the employer of returning other workers from the place of employment to such reception center, less any portion thereof required to be paid by other employers: *Provided, however,* That if the employer can establish to the satisfaction of the Secretary of Labor that the employer has provided or paid to the worker the cost of return transportation and subsistence from the place of employment to the appropriate reception center, the Secretary under such regulations as he may prescribe may relieve the employer of his obligation to the United States under this subsection.

SEC. 503. No workers recruited under this title shall be available for employment in any area unless the Secretary of Labor has determined and certified that (1) sufficient domestic workers who are able, willing, and qualified are not available at the time and place needed to perform the work for which such workers are to be employed, (2) the employment of such workers will not adversely affect the wages and working conditions of domestic agricultural workers similarly employed, and (3) reasonable efforts have been made to attract domestic workers for such employment at wages, standard hours of work, and working conditions comparable to those offered to foreign workers. In carrying out the provision of clauses (1) and (2) of this section, provision shall be made for consultation with agricultural employers and workers for the purpose of obtaining facts relevant to the supply of domestic farm workers and the wages paid such workers engaged in similar employment. Information with respect to certifications under clause (1) and (2) shall be posted in the appropriate local public employment offices and such other public places as the Secretary may require.

SEC. 504. No workers recruited under this title shall be made available to any employer or permitted to remain in the employ of any employer—

(1) for employment in other than temporary or seasonal occupations, except in specific cases when found by the Secretary of Labor necessary to avoid undue hardship; or

(2) for employment to operate or maintain power-driven self-propelled harvesting, planting, or cultivating machinery, except in specific cases when found by the Secretary of Labor necessary for a temporary period to avoid undue hardship.

SEC. 505. Workers recruited under this title who are not citizens of the United States shall be admitted to the United States subject to the immigration laws (or if already in, for not less than the preceding five years or by virtue of legal entry, and otherwise eligible for admission to, the United States may, pursuant to arrangements between the United States and the Republic of Mexico, be permitted to remain therein) for such time and under such conditions as may be specified by the Attorney General but, notwithstanding any other provision of law or regulation, no penalty bond shall be required which imposes liability upon any person for the failure of any such worker to depart from the United States upon termination of employment: *Provided*, That no workers shall be made available under this title to, nor shall any workers made available under this title be permitted to remain in the employ of, any employer who has in his employ any Mexican alien when such employer knows or has reasonable grounds to believe or suspect or by reasonable inquiry could have ascertained that such Mexican alien is not lawfully within the United States.

SEC. 506. (a) Section 210(a)(1) of the Social Security Act, as amended, is amended by adding at the end thereof a new subparagraph as follows:

“(C) Service performed by foreign agricultural workers under contract entered into in accordance with title V of the Agricultural Act of 1949, as amended.”

(b) Workers recruited under the provisions of this title shall not be subject to the head tax levied under section 2 of the Immigration Act of 1917 (8 U.S.C. 132).

(c) Workers recruited under the provisions of this title shall not be subject to any Federal or State tax levied to provide illness or disability benefits for them.

SEC. 507. For the purposes of this title, the Secretary of Labor is authorized—

(1) to enter into agreements with Federal and State agencies; to utilize (pursuant to such agreements) the facilities and services of such agencies, and to allocate or transfer funds or otherwise to pay or reimburse such agencies for expenses in connection therewith;

(2) to accept and utilize voluntary and uncompensated services; and

(3) when necessary to supplement the domestic agricultural labor force, to cooperate with the Secretary of State in negotiating and carrying out agreements or arrangements relating to the employment in the United States, subject to the immigration laws, of agricultural workers from the Republic of Mexico.

SEC. 508. For the purposes of this title—

(1) The term “agricultural employment” includes services or activities included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938, as amended, or section 1426(h) of the Internal Revenue Code [of 1954], as amended.

(2) The term “employer” shall include an association, or other group, of employers, but only if (A) those of its members for whom workers are being obtained are bound, in the event of its default, to carry out the obligations under—

taken by it pursuant to section 502, or (B) the Secretary determines that such individual liability is not necessary to assure performance of such obligations.

SEC. 509. Nothing in this Act shall be construed as limiting the authority of the Attorney General, pursuant to the general immigration laws, to permit the importation of aliens of any nationality for agricultural employment as defined in section 508, or to permit any such alien who entered the United States legally to remain for the purpose of engaging in such agricultural employment under such conditions and for such time as he, the Attorney General, shall specify.

SEC. 510. No workers will be made available under this title for employment after December 31, 1964.

VIII. INFORMATION RELATING TO PROCESSING OF IMMIGRANTS AND NONIMMIGRANTS

(Source: Visa Office, Department of State, as of April 1, 1995)

A. PROVISIONS OF THE LAW AND NUMERICAL LIMITATIONS ON IMMIGRANT VISAS

Some form of numerical limitation has been imposed on immigration into the United States since 1921, although certain classes of immigrants have traditionally been able to obtain visas outside those limitations. The Immigration Act of 1990 modified this concept by establishing an overall limit within which immediate relatives (IR's) and certain special immigrants would continue not to be delayed by the requirement of an available visa number but those who qualified as such relatives in one year would be "counted" as a total and deducted from the overall ceiling the following year to determine certain other ceilings. Outlined below are the basic elements of the system applicable at present; unless otherwise stated, the section of law cited refers to the Immigration and Nationality Act, as amended.

I. Classes not subject to the numerical limitations:

(A) Immediate Relatives

(1) Spouse and children of U.S. citizens and parents of citizens at least 21 years of age (Sec. 201(b)(2)(A)(i)).

(2) Certain surviving spouses of deceased U.S. citizens (Sec. 201(b)(2)(A)(i)).

(B) Special Immigrants

(1) Returning residents (Sec. 101(a)(27)(A) and Sec. 201(b)(1)(A)).

(2) Certain former U.S. citizens (Sec. 101(a)(27)(B) and Sec. 201(b)(1)(A)).

(C) Others

(1) Child born abroad subsequent to issuance of immediate relative visa to parent (Secs. 211(a) and 201(b)(2)(A)(ii)).

(2) Child born to a lawful permanent resident temporarily abroad (Secs. 211(a) and 201(b)(2)(B)).

(3) Vietnam Amerasians, a category created by Sec. 584 (as contained in § 101(e)) of P.L. 100-204 for Vietnam Amerasians and their immediate family members. Initially time-limited to March 20, 1990, the provision was made permanent by P.L. 101-513.

(4) Refugees admitted under § 207 or adjusted under § 209 (Sec. 201(b)(1)(B)).

(5) Aliens legalized under §§ 210, 210A, or 245A (Sec. 201(b)(1)(C)).

(6) Aliens whose deportation is suspended under § 244(a) (Sec. 201(b)(1)(D)).

(7) Aliens acquiring lawful permanent resident status under § 249 (Sec. 201(b)(1)(E)).

II. Numerically limited classes

(A) Special Categories

(1) Transition diversity immigrants. Sec. 132 of P.L. 101-649 provided 40,000 visa numbers annually during fiscal years 1992, 1993, and 1994 for natives of foreign states adversely affected by the 1965 Act and their spouses and children, of which at least 40% are reserved for natives of Ire-

land. Under a subsequent technical amendment (§ 302(b)(6) of P.L. 102-232), natives of Northern Ireland are deemed to be natives of Ireland for the purpose of this provision. The Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416 of October 25, 1994) further amended the provision to ensure full utilization of the program's numbers, i.e., those available but unused in the final year. It authorized, during fiscal year 1995 only, the issuance of those visas authorized but not issued during fiscal years 1992 through 1994. This amendment was effective upon enactment so that the visas could be issued during the fiscal year that had just started. [For more detailed information on this program, see App. VIII.B.4.]

(2) Note that the separate numerical limitations on special immigrants defined in Sec. 101(a)(27)(E), (F), and (G) were repealed by Sec. 212 of P.L. 103-416.

(B) Numerical Limits under §§ 201, 202 and 203

In addition to the overall limits described below, the INA contains a per-country ceiling to preclude preemption of the annual numbers by one or more foreign states of heavy emigration. Under the formula in the Immigration Act of 1990, the per-country limit is at least 25,620, i.e., 7% of the combined total available to family-sponsored and employment-based immigrants. The permanent diversity classification, which went into effect at the beginning of fiscal year 1995, contains a separate 7% per-country limit on applicants under that provision (Sec. 203(c)).

As a selective mechanism to enable distribution of the numbers to the immigrants desired, a system of preference classes, commingling certain types of relatives and needed workers, has long existed. The Immigration Act of 1990, however, divided such preference classes into two broad categories: family-sponsored immigrants and employment-based immigrants, with a separate numerical limitation for each category. It also added a third broad category, Diversity Immigrants, sometimes referred to as "new seed", which went into effect in fiscal year 1995.

(1) Family-sponsored immigrants (Sec. 203(a))

(a) The overall ceiling for relatives is now 480,000 (it was 465,000 in fiscal years 1992, 1993 and 1994), from which the total of immediate relatives and other family classes which are exempt from the numerical ceiling (I.A. and I.C.(1) and (2) above) are deducted to determine the level of family-based preference immigration. Although the residuum could exceed or be less than 226,000, that figure is established as a minimum for family-sponsored immigrants.

(b) Specifically, if such numerically-exempt classes are fewer than 254,000, the family-sponsored preferences will be entitled to more than 226,000. On the other hand if family-related, numerically-exempt classes exceed 254,000, the "floor" of 226,000 will protect the relative-preference classes from severe reductions.

(2) Employment-based immigrants (Sec. 203(b))

The overall ceiling for this category is 140,000. The term "employment-based" is more broadly defined than a strict interpretation would provide; that is, it encompasses all non-family immigration (other than diversity immigrants), whether or not the alien is actually destined to employment in the United States.

(3) Diversity immigrants (Sec. 203(c))

This classification became effective with the start of fiscal year 1995. It is designed to provide immigration opportunities for aliens from foreign states from which immigration levels are low relative to the level from other countries. The annual limitation on this class is 55,000.

(C) Preference classes as set forth in § 203

Class limitations are expressed in absolute numbers for the family-sponsored immigrants and by percentages applied against the annual limitation for the employment-based category as set forth in § 201. There are no sub-categories to the diversity immigrant classification.

(1) Family-sponsored preference classes

(a) First preference: Unmarried sons and/or daughters (i.e., offspring aged 21 or older) of United States citizens: not more than 23,400 (plus any numbers unused by the family fourth preference; (sec. 203(a)(1)).

(b) Second preference: (A) Spouses and children of lawful permanent residents, and (B) unmarried sons and/or daughters of lawful permanent residents: not more than 114,200, plus any numbers not required for the family first preference. Moreover, any numbers by which

a year's worldwide family-sponsored preference limit exceeds the 226,000 minimum are to be added to the second preference, rather than to the overall family limit. Finally, of the family second preference total limit, 77% are designated for subcategory (A) (spouses and children), of which 75% are to be issued *without regard to the per-country limit*; i.e., these numbers go to the applicants with the earliest priority dates regardless of their country of chargeability; (sec. 203(a)(2)).

(c) Third preference: Married sons and daughters of United States citizens: not more than 23,400, plus any numbers not required by first and second family preference; (sec. 203(a)(3)).

(d) Fourth preference: Siblings of United States citizens who are at least 21 years of age: not more than 65,000 plus any numbers not required by the first three family preferences; (sec. 203(a)(4)).

(2) Employment-based preference classes

(a) First preference: Priority workers (aliens with extraordinary ability, outstanding professors and researchers, and certain multinational executives and managers): not more than 28.6%, plus any visa numbers not required by the fourth and fifth employment preferences; (sec. 203(b)(1)).

(b) Second preference: Members of the professions with advanced degrees and aliens of exceptional ability: not more than 28.6%, plus any numbers unused by the first employment preference; (sec. 203(b)(2)).

(c) Third preference: Skilled workers, professionals (without advanced degrees), and other (i.e., unskilled) workers: not more than 28.6%, plus any numbers unused by the first two employment preferences, of which not more than 10,000 numbers are available for unskilled workers; (sec. 203(b)(3)).

(d) Fourth preference: Special immigrants (other than returning residents and certain former citizens): not more than 7.1%, of which not more than 5,000 numbers may be allocated for certain religious workers. There is no "fall-down" of numbers from higher classes into this class; the limit is absolute. The class includes not only aliens defined as special immigrants in past legislation (ministers of religion, certain employees/retirees of the U. S. Government abroad, Panama Canal and/or Zone employees, certain doctors, certain international organizations-related aliens) but also two new classes, aliens dependent on a juvenile court and certain members of the U.S. Armed Forces recruited abroad, as well as a time-limited expansion of the minister of religion provision to include certain religious workers. These provisions are found in § 101(a)(27)(C) through (K) and § 203(b)(4).

(e) Fifth preference: Employment creators, i.e., aliens whose investments will create employment for at least ten United States citizens and/or lawful permanent residents: not more than 7.1%, with no fall-down; (sec. 203(b)(5)).

(3) Diversity immigrants:

Eligibility for this class resides in two principal criteria: the alien is from an area from which immigration is generally lower than from other areas, and the alien meets certain educational or skill requirements (a high school education or equivalent or two years' work experience in an occupation that requires at least two years' experience or training). The overall limit (55,000) for this class is made available to natives of so-called "low-volume" countries on a regional basis. The successful registrants for this class are those selected at random within the six specified geographic regions. See sec. 203(c) for a description of the formula by which this distribution is calculated.

III. Related Provisions

(A) The applicability of the labor certification requirement (§ 212(a)(5)(A)) for immigrants is explicitly restricted to aliens in the 2nd and 3rd employment-based preferences. Inasmuch as that second preference provision authorizes the Attorney General to waive the requirement for an employer in certain cases, however, the labor certification is also waived, by regulation, in those cases as a matter of practicality.

(B) A spouse or child accompanying or following to join a preference immigrant (whether under sec. 203(a), 203(b), or 203(c)) is entitled to the same classification and priority date as the principal alien if not otherwise entitled to an immigrant classification and the immediate issuance of a visa. (sec. 203(d))

(C) The Marriage Fraud Amendments of 1986 (P.L. 89-639, November 10, 1986) established a conditional immigration status for aliens whose entitlement

to an immigrant classification derived from a marriage entered into less than two years prior to admission. This provision affects not only the spouse of such marriage but also any sons or daughters thereof. The conditionality may be removed only by approval of a petition jointly filed by the marriage partners during the 90-day period prior to the second anniversary of acquiring conditional status.

(D) Aliens who obtain a visa or adjustment of status under a private law are subject to the numerical limitations in §§ 201 and 202 unless explicitly exempted therefrom.

(E) An alien may adjust status from that of nonimmigrant to lawful permanent resident, subject to certain conditions, through the Immigration and Naturalization Service. Unless the adjustment is in a numerically-exempt category, it is charged against all appropriate limitations. (sec. 245)

B. ALLOCATION OF IMMIGRANT VISA NUMBERS

I. The Operation of the Immigrant Numerical Control System

(Source: Visa Office, Department of State, as of April 1, 1995)

The Department of State is responsible for administering the provisions of the Immigration and Nationality Act (INA) relating to numerical limitations on immigrant visa issuances and adjustments of status. Following the description of the administrative mechanics, there is a brief glossary of terms used therein.

HOW THE SYSTEM OPERATES:

The INA sets forth both overall annual and foreign state limitations, which the Visa Office (VO) administers on the basis of twelve monthly allocations. In order to determine the appropriate distribution of the visa numbers, VO requires a report at the beginning of each month from each immigrant visa issuing post which lists totals of documentarily qualified applicants subject to the numerical limitations. These data are grouped by foreign state chargeability/preference/priority date. No names are reported. (The Immigration and Naturalization Service (INS) requests visa numbers on a case-by-case basis as needed.)

VO collates these data by priority date within the chargeability and preference subdivisions during the first week of the month. This collated list of documentarily qualified demand is then compared with the numbers available for that month and numbers are allocated to posts for reported applicants in the order of their priority dates, the oldest dates first.

If there are sufficient numbers in a particular category for all documentarily qualified applicants, the category is considered "current". Whenever the total demand in a category exceeds the supply of visa numbers available for allotment during that month, the category is considered "oversubscribed" and a cut-off date is established. The cut-off date is the priority date of the first documentarily qualified applicant who could *not* be accommodated within the limit. The allocations include visa numbers only for applicants with priority dates earlier than the cut-off date. Family and employment preference cut-off dates are ordinarily set at the 1st, 8th, 15th, and 22nd of a month. Priority dates are usually grouped by weeks, the first through the seventh under 1st, the eighth through the fourteenth under 8th, etc.) In the case of an oversubscribed foreign state or dependent area, however, the reported demand is not grouped but reported by actual priority date, and the cut-off date may not meet that pattern.

Visa number allocations within the various numerical limitations of the Diversity category established under §§ 201 and 203(c) are essentially similar to that for family and employment preference number allocations. The ranking assigned to a case by the annual random order Diversity "lottery" serves as the "priority date" of the principal applicant.

By the second week of each month, VO has determined allocations and cut-off dates (if any), and telegraphically transmitted both to all posts. The cut-off dates are simultaneously made public; VO has a recorded telephone message at (202) 663-1541 which is updated whenever there is a change in cut-off dates. This information is also published in VO's monthly Visa Bulletin. (Requests for inclusion on the Visa Bulletin mailing list may be addressed to Visa Bulletin, Visa Office, Department of State, Washington, DC 20522-0113.)

DEFINITION OF SOME TERMS:

Allotment: The allocation of one or more immigrant visa numbers to a consular office or to INS for use in connection with immigrant visa issuance(s) or adjustment(s) of status. If not used, such numbers must be returned to the Visa Office (VO) for reincorporation into the pool of numbers available for later allocations during the fiscal year.

Documentarily Qualified: The applicant has notified the consular office that he or she has obtained all of the documents specified by the consular office as sufficient to apply formally for an immigrant visa (see § 222(b)) and the consular office has completed all necessary preliminary processing.

Entitled to Immigrant Status: An alien is entitled to an immigrant status if a petition according status under § 203(a) or 203(b) has been approved or if a petition seeking classification under § 203(c) has been randomly selected for immigrant visa processing.

Foreign State Chargeability: As a general rule, an alien is chargeable to the foreign state or dependent area of birth. Exceptions are provided for: a child (under 21 years of age and unmarried) and/or spouse accompanying or following to join a principal alien if necessary to prevent the separation of the family unit; a person born in a foreign state in which neither parent was born nor permanently resident at the time of the birth; and, an alien born in the United States but not a citizen thereof. (sec. 202(b)) The current nationality of the alien is not a factor in determining foreign state chargeability except in the case of a person born in the United States.

BACKGROUND INFORMATION AND CLARIFICATION OF SOME FREQUENTLY MISUNDERSTOOD POINTS:

Applicants entitled to immigrant status are instructed to obtain requisite supporting documentation when it appears that a visa number will be available within the next few months. The movement from that category to "documentarily qualified", however, depends entirely on their own initiative and convenience thereafter. Therefore, not all applicants with priority dates within the cut-off date have been reported for allocation of a visa number nor their cases processed to final action. As noted, visa allotments are made solely on the basis of reports of applicants who have become documentarily qualified. Such reported demand can (and does) fluctuate from one month to another, with an inevitable effect on cut-off dates.

If an applicant is reported as documentarily qualified but a cut-off date precludes allocation of a visa number, the priority date of that applicant is recorded in VO and an allocation made as soon as the movement of the cut-off date makes it possible. The post does not need to re-report such demand in following months.

Visa numbers are always allocated for *all* documentarily qualified applicants whose priority dates are within the relevant cut-off date provided the case has been reported in time to be included in VO's compilation of reported demand.

Not all numbers so allocated are actually used during the month for which allotted, because the applicant either fails to keep the appointment or is found ineligible for a visa during the formal application. Unused numbers, as noted above, must be returned to VO for later reallocation. The rate of return fluctuates, just as demand does. Fewer returns means fewer numbers available for reallocation. Coupled with demand, such fluctuations may also affect cut-off dates, causing them to remain static, slow, speed up, or even regress. Retrogression is particularly possible toward the end of the fiscal year as visa number usage nears the annual limitations.

Allocations to consular posts outside the regular monthly cycle are possible in emergency or exceptional circumstances but only at the request of the processing consular office. If, however, retrogression of a cut-off date has been announced, requests for such special allocations can be honored only if the applicant's priority date is within the retrogressed date.

Generally speaking, the law is designed to achieve two sometimes-conflicting goals: to accommodate applicants in chronological order and, at the same time, preclude preemption of all visa numbers by natives of one or a few countries with unusually high emigration levels. This was controlled after 1965 by a "per-country" limit of 20,000 numerically-limited visas and adjustments. Inasmuch as that led to significant disparities in cut-off dates, the Immigration Act of 1990 (§ 102 of P.L. 101-649) modified the system in two ways: it increased the ceiling and, more importantly, it made 75% of the family-sponsored 2A preference category exempt from the per-country ceiling, which has virtually eliminated such disparities for that classification.

It must be noted that the per-country limit (now a minimum of 25,620) is not a "quota" set aside for any given country. Clearly, each country could not receive 25,620 visas within the overall limit. It is not an entitlement but a barrier against

monopolization. (The figure cited is for applicants under §§ 203(a) and 203(b) combined; the per-country limit for § 203(c) applicants is 3,850.)

The law also requires (§ 202(e)) that visa allocations to oversubscribed foreign states be pro-rated among the § 203(a) and 203(b) classifications, in order to prevent preemption of the per-country limit by applicants in the higher classes. (A foreign state (or dependent area) is considered "oversubscribed" when known demand exceeds the per-country limit.) If demand in a particular category is insufficient to use the pro-rated share of the numbers, however, the unused numbers fall to other classes, permitting a disparity from rigid pro-rating during any given allocation cycle.

The Visa Bulletin sometimes contains projections of future availability of visa numbers for the various classifications and oversubscribed foreign states. Although these are based on the best available data, they are not guarantees as to what will happen. Many factors affect the rate at which demand ebbs and flows, and actual movement of cut-off dates is contingent solely on each month's reports of documentarily qualified applicants.

2. LIST OF FOREIGN STATES SUBJECT TO ANNUAL LIMITATION OF IMMIGRANTS UNDER SECTION 202(a) OF THE IMMIGRATION AND NATIONALITY ACT *

(Source: Visa Office, Department of State; as of January 1, 1995)

Afghanistan	Finland	Micronesia, Federated States of ⁸
Albania	France ¹	Moldova
Algeria	Gabon	Monaco
Andorra	Gambia, The	Mongolia
Angola	Georgia	Morocco
Antigua and Barbuda	Germany	Mozambique
Argentina	Ghana	Namibia
Armenia	Georgia	Nauru
Australia ¹	Great Britain and Northern Ireland (United Kingdom) ^{1 4}	Nepal
Austria		Netherlands ¹
Azerbaijan		New Zealand ¹
Bahamas, The	Greece	Nicaragua
Bahrain	Grenada	Niger
Bangladesh	Guatemala	Nigeria
Barbados	Guinea	Norway
Belgium	Guinea-Bissau	Oman
Belize	Guyana	Palau ⁸
Benin	Haiti	Pakistan ⁶
Bhutan	Honduras	Panama
Bolivia	Hong Kong ⁵	Papua New Guinea
Bosnia and Herzegovina	Hungary	Paraguay
Botswana	Iceland	Peru
Brazil	India ⁶	Philippines
Brunei	Indonesia	Poland
Bulgaria	Iran	Portugal ^{1 9}
Burkina Faso	Iraq	Qatar
Burma	Ireland	Romania
Burundi	Israel ³	Russia (Russia Federation)
Belarus	Italy	Rwanda
Cambodia	Jamaica	Saint Kitts and Nevis
Cameroon	Japan ⁷	Saint Lucia
Canada	Jordan ³	Saint Vincent and the Grenadines
Cape Verde	Kazakhstan	San Marino
Central African Republic	Kenya	Sao Tome and Principe
Chad	Kiribati	Saudi Arabia
Chile	Korea, North	Senegal
China ²	Korea, South	Serbia and Montenegro ¹⁰
-mainland born	Kuwait	Seychelles
-Taiwan born	Kyrgyzstan	Sierra Leone
Colombia	Laos	Singapore
Comoros	Latvia	Slovakia
Congo	Lebanon	Slovenia
Costa Rica	Lesotho	Solomon Islands
Cote d'Ivoire (Ivory Coast)	Liberia	Somalia
Croatia	Libya	South Africa
Cuba	Liechtenstein	Spain ^{1 9}
Cyprus	Lithuania	Sri Lanka
Czech Republic	Luxembourg	Sudan
Denmark ¹	Macedonia, (The Former Republic of)	Suriname
Djibouti	Madagascar	Swaziland
Dominica	Malawi	Sweden
Dominican Republic	Malaysia	Switzerland
Ecuador	Maldives	Syria ³
Egypt ³	Mali	Tajikistan
El Salvador	Malta	Tanzania
Equatorial Guinea	Marshall Islands ⁸	Thailand
Eritrea	Mauritania	Togo
Estonia	Mauritius	
Ethiopia	Mexico	
Fiji		

Tongo	Ukraine	Vietnam
Trinidad and Tobago	United Arab Emirates	Western Samoa
Tunisia	Uruguay	Yemen
Turkey	Uzbekistan	Zaire
Turkmenistan	Vanuatu	Zambia
Tuvalu	Vatican City	Zimbabwe
Uganda	Venezuela	

*The Immigration Act of 1990 (Pub. L. 101-649) amended section 202(a) of the Immigration and Nationality Act to increase the annual foreign state limitation. The annual foreign state limitation shall not exceed 7 percent of the total annual worldwide limitation. This amendment was effective October 1, 1991.

¹ Foreign states which have dependent areas.

² Persons born in Manchuria, Inner Mongolia, Sinkiang, and Tibet are chargeable to the limitation for China-mainland.

³ Persons born in the areas administered prior to June 1967 by Israel, Jordan, Egypt, and Syria are chargeable, respectively, to the foreign state limitation for Israel, Jordan, Egypt, and Syria.

⁴ For the purpose of the *diversity immigrant category only*, Northern Ireland is treated as a separate visa chargeability area under section 203(c) of the Immigration and Nationality Act.

⁵ Treated as a separate chargeability area per section 103 of the Immigration Act of 1990.

⁶ Persons born in Junagadh and that portion of Jammu and Kashmir controlled by India are chargeable to the foreign state limitation for India. Persons born in that portion of Jammu and Kashmir controlled by Pakistan are chargeable to the foreign state limitation for Pakistan.

⁷ Persons born in the Habomal Islands, Shikotan, Kunashiri, Etorofu, and Southern Sakhalin are chargeable to the foreign state limitation for Japan.

⁸ In November 1986 three of the four political components which made up the Trust Territory of the Pacific Islands assumed new status and are no longer subject to the Trusteeship agreement. The Republic of the Marshall Islands and the Federated States of Micronesia are now sovereign, self-governing countries in free association with the United States; as such, each has become a separate chargeability for immigrant visa purposes. The Northern Marianas is now a Commonwealth in political union with the United States, and thus a U.S. territory; therefore, it is *not* a chargeability area for immigrant visa purposes. In October 1994, the Republic of Palau became a sovereign, self-governing country in free association with the United States, and as such has become a separate chargeability area for immigrant visa purposes.

⁹ Madeira and the Azores are included as an integral part of Portugal.

¹⁰ Serbia and Montenegro have proclaimed the formation of a joint independent state, but this entity has not been formally recognized as a state by the United States.

¹¹ The Balearic Islands, the Canary Islands, and the following areas of Spanish sovereignty in North Africa—Ceuta, Islas Chafarinas, Melilla, Penon de Alhucemas, and Penon de Velez de la Gomera—are considered as integral parts of Spain.

3. LIST OF DEPENDENT AREAS SUBJECT TO ANNUAL LIMITATION OF IMMIGRANTS UNDER SECTION 202(a) OF THE IMMIGRATION AND NATIONALITY ACT *

(Source: Visa Office, Department of State; as of April 1, 1995)

GOVERNING COUNTRY and Dependent Areas

AUSTRALIA

Christmas Island
Cocos (Keeling) Islands

DENMARK

Greenland

FRANCE

French Guiana
French Polynesia
French Southern and
Antarctic Lands
Guadeloupe †
Martinique
New Caledonia
Reunion
St. Pierre and Miquelon
Wallis and Futuna

GREAT BRITAIN AND NORTHERN IRELAND

Anguilla
Bermuda
British Virgin Islands

GREAT BRITAIN AND NORTHERN IRELAND (continued)

Cayman Islands
Falkland Islands
Gilbraltar
Montserrat
Pitcairn
St. Helena
Turks and Caicos Islands

NETHERLANDS

Aruba
Netherlands Antilles †

NEW ZEALAND

Cook Islands
Niue

PORTUGAL

Macao

SPAIN

Western Sahara

* The Immigration Act of 1990 (Pub. L. 101-649) amended section 202(a) of the Immigration and Nationality Act to increase the annual dependent area limitation. The annual dependent area limitation shall not exceed 2 percent of the total annual limitation. This amendment was effective October 1, 1991.

† Persons born in the portion of St. Martin controlled by France are chargeable to Guadeloupe; those born in the Netherlands controlled portion are chargeable to the Netherlands Antilles.

4. TRANSITION DIVERSITY PROGRAM—AA-1

(Source: Department of State; as of April 1, 1995)

(A) The Immigration Act of 1990 established a transition diversity program for Fiscal Years 1992, 1993 and 1994 under which 40,000 numbers outside the annual limitation were made available for natives of foreign states from which immigration had been "adversely affected" by P.L. 89-236 (the Act of October 3, 1965). This provision was derived from and intended as a bridge between the former "NP-5" program created by the Immigration Reform and Control Act of 1986 (P.L. 99-603) [see Appendix in 8th Edition] and the permanent "Diversity Immigrants" classification (DV-1) which went into effect in FY-95. The temporary program was identified by the symbol AA-1. (As noted in Appendix VIII.A.II.(A)(1), the program was extended for an additional year to mop up numbers unused during the initial three years of operation. See (B) below for a discussion of the provisions relating to the extension.)

The AA-1 program specifically applied to the same "adversely affected" countries previously identified for the NP-5 program. The merger of the former German Democratic Republic and the Federal Republic of Germany reduced the number from 36 to 35 such countries.

In addition to a substantial increase in the numbers, this provision also differed from the NP-5 program, however, in several other respects. For example, substantively, it set aside a minimum of 40% of the numbers for natives of the country with the highest usage of NP-5 visa numbers, i.e., Ireland. (Under a subsequent Technical Amendments Act provision [§ 302(b)(6) of P.L. 102-232], natives of Northern Ireland were deemed to be natives of Ireland for the purpose of this program.) It also required successful registrants to provide a firm offer of permanent employment (i.e., not less than one year) at the time of formal application for a visa or adjustment of status. Not least, it rendered § 212(a)(6)(C) and § 212(e) ineffective with respect to such applicants.

It also differed in procedural implementation. In its initial formulation, the program "selected" successful registrants by the chronological sequence in which their registration applications were received during a specified period. Under this system, applicants could submit as many registration applications as they wished and, as a counterweight to the vagaries of the many postal systems involved, a significant proportion of the applicants did, indeed, engage in multiple mailings. This procedure too was modified by the technical amendment. Effective for FY's 1993 and 1994, applicants were restricted to a single registration application; any duplicate invalidated all registration applications from the sender. Successful registrants were then chosen by random selection.

The first registration period was from October 14, 1991 to October 20, 1991. Over seventeen million applications were received (hence the change in the selection system), from which the first 50,000 were notified of their selection and instructed as to the requisite steps for applying formally for an immigrant visa or directed to the INS if the alien contemplated adjustment of status. The following is a breakdown by chargeability of the selected 50,000:

Albania	21	Indonesia	2,947
Algeria	212	Ireland	20,000
Argentina	1,453	Italy	469
Austria	108	Japan	6,413
Belgium	110	Latvia	20
Bermuda	2	Liechtenstein	0
Czechoslovakia	261	Lithuania	58
Denmark	145	Luxembourg	1
Estonia	15	Monaco	2
Finland	88	New Caledonia	2
France	636	Netherlands	213
Germany	657	Norway	287
Gibraltar	1	Poland	12,056
Great Britain	3,054	San Marino	0
Guadeloupe	0	Sweden	226
Hungary	240	Switzerland	172
Iceland	18	Tunisia	109

The Department, each year, published well in advance and publicized widely the registration period and the location to which such applications should be sent for the following fiscal year's AA-1 program. Each year's registration program was

self-contained; i.e., a registration was valid only for the year covered by the registration period. On the other hand, if, by chance, any numbers were unused in any year, the surplus were added to the numbers available the following year.

(B) For purposes of the 1995 extension, there was no new registration. Registrants were limited to those who had been selected for the permanent Diversity category (that selection having already been made prior to the enactment of the AA-1 extension), which meant that they had to be both from an AA-1 country and a "low-volume" country eligible under the diversity provision. Within that group, selection was limited to those who were ineligible for a diversity (DV-1) visa under §212(a)(6)(C) or §212(e) but would not be so ineligible under the terms of the AA-1 provision, or who were unable to obtain a diversity visa because of regional or percentage limitations.

Such registrants were required to meet the educational/occupational standards for a DV-1 visa rather than having to submit an employment offer but were eligible for the waiver of exclusions provisions of the AA-1 program. Moreover, the distribution of the 1404 numbers remaining from the original program was an amalgam of both programs; i.e., the 40% set aside for Ireland was retained, but the rest of the numbers were to be apportioned in accordance with the regional distribution system of the DV-1 provisions.

C. TREATIES CONTAINING TREATY TRADER AND TREATY INVESTOR PROVISIONS IN EFFECT BETWEEN THE UNITED STATES AND OTHER COUNTRIES

Treaties marked with one asterisk (*) contain only treaty trader provisions and allow only E-1 issuance, not E-2. Treaties marked with two asterisks (**) contain only treaty investor provisions and allow only E-2 issuance, not E-1. Treaties listed as "Treaty concerning the reciprocal encouragement and protection of investments" are more commonly known as Bilateral investment treaties or BITs. These treaties cover only E-2 investor status.

(Source: Visa Office, Department of State; as of January 1, 1995)

ARGENTINA

Treaty of friendship, commerce, and navigation (Article II)
Entered into force December 20, 1854.
10 Stat. 1005; TS 4; 5 Bevans 61.
Treaty concerning reciprocal encouragement and protection of investments (Article II)
Entered into force October 20, 1994.
S. Treaty doc. 103-2, 103d Cong., 1st sess. 1994.

AUSTRALIA

Section 204 of the Immigration Act of 1990 (Pub. L. 101-649) authorized the issuance of E-1 and E-2 visas to citizens of Australia if the Department of State determined that Australia provides reciprocity for those visa categories. Authorization was granted from the Department for E-1 visas on December 16, 1991 and for E-2 visas on December 27, 1991.

AUSTRIA

Treaty of friendship, commerce, and consular rights (Article I).
Entered into force May 27, 1931.
47 Stat. 1876; TS 838; 5 Bevans 341; 118 LNTS 241.

BANGLADESH **

Treaty concerning the reciprocal encouragement and protection of investments (Article II).
Entered into force July 25, 1989.
S. Treaty Doc. No. 23, 99th Cong., 2d Sess. (1986).

BELGIUM

Treaty of friendship, establishment and navigation (Article II).
Entered into force October 3, 1963
(Treaty of 1875 in force prior to this date).
14 UST 1284; TIAS 5432; 480 UNTS 149.

BOLIVIA *

Treaty of peace, friendship, commerce, and navigation (Article III).
Entered into force November 9, 1862.
12 Stat. 1003; TS 32; 5 Bevans 721.

BRUNEI *

Treaty of peace, friendship, commerce, and navigation (Article II).
Entered into force July 11, 1853.
10 Stat. 909; TS 33; 5 Bevans 1080.

BULGARIA **

Treaty concerning the reciprocal encouragement and protection of investments (Article II).
Entered into force June 2, 1994.
S. Treaty Doc. No. 3, 103d Cong., 1st Sess. (1993).

CAMEROON **

Treaty concerning the reciprocal encouragement and protection of investments (Article II).
Entered into force April 6, 1989.
S. Treaty Doc. No. 22, 99th Cong., 2d Sess. (1986).

CANADA

U.S.-Canada Free Trade Agreement; chap. 15, implemented by sec. 307(a) of Pub. Law 100-449.
Effective January 1, 1989; 102 Stat. 1851; Pub. L. 100-449.
Repealed January 1, 1994.

North American Free Trade Agreement; chap. 16, implemented by secs. 341 and 342 of Pub. L. 103-102.
Effective January 1, 1993; 107 Stat. 2116, 2118.

CHINA (Taiwan) ¹

Treaty of friendship, commerce, and navigation (Article II).
Entered into force November 30, 1948.
63 Stat. 1299; TIAS 1871; 6 Bevans 761; 25 UNTS 69.

COLOMBIA

Treaty of peace, amity, navigation, and commerce (Article III).

Entered into force June 10, 1848.
9 Stat. 881; TS 54; 6 Bevans 868.

CONGO **

Treaty concerning the reciprocal encouragement and protection of investments (Article II).

Entered into force August 13, 1994.
S. Treaty Doc. 102-1, 102nd Cong., 1st Sess. (1991).

COSTA RICA

Treaty of friendship, commerce, and navigation (Article II).

Entered into force May 26, 1852.
10 Stat. 916; TS 62; 6 Bevans 1013.

CZECH REPUBLIC ***

Treaty concerning the reciprocal encouragement and protection of investments (Article II).

Entered into force January 1, 1993.
S. Treaty Doc. No. 31, 102d Cong., 2d Sess. (1992).

DENMARK * *

Treaty of friendship, commerce, and navigation (Article II).

Entered into force July 30, 1961
(Convention of 1826 was in force prior to this date).
12 UST 908; TIAS 4797; 421 UNTS 105.

EGYPT *

Treaty concerning the reciprocal encouragement and protection of investments (Article II).

Entered into force June 27, 1992.
S. Treaty Doc. No. 24, 99th Cong., 2d Sess. (1986).

ESTONIA *

Treaty of friendship, commerce, and consular rights (Article I).

Entered into force May 22, 1926.
44 Stat. 2379; TS 736; 7 Bevans 620; 50 LNTS 13.

ETHIOPIA

Treaty of amity and economic relations (Article VI).

Entered into force October 8, 1953.
4 UST 2134; TIAS 2864; 206 UNTS 41.

FINLAND

Treaty of friendship, commerce, and consular rights (Article I).

Entered into force August 10, 1934 (E-1).
49 Stat. 2659; TS 868; 7 Bevans 718; 152 LNTS 45.

Protocol of amendment (Article I).

Entered into force December 1, 1992 (E-2).
S. Treaty Doc. No. 34, 102d Cong., 2d Sess. (1992).

FRANCE *

Convention of establishment (Article II).

Entered into force December 21, 1960.
11 UST 2398; TIAS 4625; 401 UNTS 75.

GERMANY (FRG)

Treaty of friendship, commerce, and navigation (Article II and Protocol, paragraphs 1 and 2).

Entered into force July 14, 1956.
7 UST 1839; TIAS 3593; 273 UNTS 3.

GREECE *

Treaty of friendship, commerce, and navigation (Article II).

Entered into force October 13, 1954.
5 UST 1829; TIAS 3057; 224 UNTS 279.

GRENADA **

Treaty concerning the reciprocal encouragement and protection of investments (Article II).

Entered into force March 3, 1989.
S. Treaty Doc. No. 25, 99th Cong., 2d Sess. (1986).

HONDURAS

Treaty of friendship, commerce, and consular rights (Article I).

Entered into force July 19, 1928.
45 Stat. 2618; TS 764; 8 Bevans 905; 87 LNTS 421.

IRAN

Treaty of amity, economic relations and consular rights (Article II).
Entered into force June 16, 1957.
8 UST 899; TIAS 3853; 284 UNTS 93.

IRELAND

Treaty of friendship, commerce, and navigation (Article I).
Entered into force September 14, 1950 (E-1).
1 UST 785; TIAS 2155; 206 UNTS 269.

Protocol of amendment (Article I)
Entered into force November 18, 1992 (E-2).
S. Treaty Doc. No. 35, 102d Cong., 2d Sess. (1992).

ISRAEL *

Treaty of friendship, commerce, and navigation (Article II).
Entered into force April 3, 1954.
5 UST 550; TIAS 2948; 219 UNTS 237.

ITALY

Treaty of friendship, commerce, and navigation (Article I and Article XXIV, paragraph 7).
Entered into force July 26, 1949.
63 Stat. 2255; TIAS 1965; 9 Bevans 261; 79 UNTS 171.

JAPAN ⁵

Treaty of friendship, commerce, and navigation (Article I).
Entered into force October 30, 1953.
4 UST 2063; TIAS 2863; 206 UNTS 143.

KAZAKHSTAN **

Treaty concerning the reciprocal encouragement and protection of investments (Article II).
Entered into force January 12, 1994.
S. Treaty Doc. No. 12, 103d Cong., 1st Sess. (1993).

KOREA

Treaty of friendship, commerce, and navigation (Article II).
Entered into force November 7, 1957.
8 UST 2217; TIAS 3947; 302 UNTS 281.

KYRGYZSTAN **

Treaty concerning the reciprocal encouragement and protection of investments (Article II).
Entered into force January 12, 1994.
S. Treaty Doc. No. 13, 103d Cong., 1st Sess. (1993).

LATVIA *

Treaty of friendship, commerce, and consular rights (Article I).
Entered into force July 25, 1928.
45 Stat. 2641; TS 765; 9 Bevans 531; 80 LNTS 35.

LIBERIA

Treaty of friendship, commerce, and navigation (Article I).
Entered into force November 21, 1939.
54 Stat. 1739; TS 956; 9 Bevans 595; 201 LNTS 163.

LUXEMBOURG

Treaty of friendship, establishment and navigation (Article II).
Entered into force March 28, 1963.
14 UST 251; TIAS 5306; 474 UNTS 3.

MEXICO

North American Free Trade Agreement; chap. 16, implemented by secs. 341 and 342 of Pub. L. 103-102.
Effective January 1, 1993.
107 Stat. 2116, 2118.

MOROCCO **

Treaty concerning the reciprocal encouragement and protection of investments (Article II).
Entered into force May 29, 1991.
S. Treaty Doc. No. 18, 99th Cong., 2d Sess. (1986).

NETHERLANDS ⁶

Treaty of friendship, commerce, and navigation (Article II).
Entered into force December 5, 1957.
8 UST 2043; TIAS 3942; 285 UNTS 231.

NORWAY ⁷

Treaty of commerce and navigation (Article I).
Entered into force January 18, 1828.
8 Stat. 346; TS 348; 11 Bevans 876.

Treaty of friendship, commerce, and consular rights, etc.

Entered into force September 13, 1932.
47 Stat. 2135; TS 852; 10 Bevans 481; 134 LNTS 81.

OMAN

Treaty of amity, economic relations and consular rights (Article II).
Entered into force June 11, 1960.
11 UST 1835; TIAS 4530; 380 UNTS 181.

PAKISTAN

Treaty of friendship and commerce
(Article II and Protocol, paragraph 1).
Entered into force February 12, 1961.
12 UST 110; TIAS 4683; 404 UNTS 259.

PANAMA **

Treaty concerning the reciprocal
encouragement and protection of
investments (Article III)
Entered into force May 30, 1991.
S. Treaty Doc. No. 14, 99th Cong., 2d
Sess. (1986).

PARAGUAY

Treaty of friendship, commerce, and
navigation (Article II).
Entered into force March 7, 1860.
12 Stat. 1091; TS 272; 10 Bevans 888.

PHILIPPINES

On September 6, 1955, pursuant to
Article V of the revised Trade
Agreement between the United States
and the Republic of the Philippines,
notes were exchanged between the two
Governments implementing the
provisions of the Act of June 18, 1954,
which renders Philippine nationals
eligible for nonimmigrant classification
as treaty traders and treaty investors
under the provisions of INA
101(a)(15)(E) although there is no
commercial treaty in force between the
two countries.
Entered into force September 6, 1955.
6 UST 3030; TIAS 3349; 238 UNTS 109.

POLAND **

Treaty concerning business and economic
relations (Article II).
Entered into force August 6, 1994.
S. Treaty Doc. No. 18, 101st Cong., 2d
Sess. (1990).

ROUMANIA **

Treaty concerning the reciprocal
encouragement and protection of
investments (Article II).
Entered into force January 15, 1994.
S. Treaty Doc. No. 36, 102d Cong., 2d
Sess. (1992).

SENEGAL **

Treaty concerning the reciprocal
encouragement and protection of
investments (Article II).
Entered into force October 25, 1990.
S. Treaty Doc. No. 15, 99th Cong., 2d
Sess. (1986).

SLOVAK REPUBLIC **2

Treaty concerning the reciprocal
encouragement and protection of
investments (Article II).
Entered into force January 1, 1993.
S. Treaty Doc. No. 31, 102d Cong., 2d
Sess. (1992).

SPAIN*

Treaty of friendship and general
relations (Article II).
Entered into force April 14, 1903.
33 Stat. 2105; TS 422; 11 Bevans 628.

SRI LANKA **

Treaty concerning the reciprocal
encouragement and protection of
investments (Article II).
Entered into force May 1, 1993.
S. Treaty Doc. No. 25, 102d Cong., 2d
Sess. (1992).

SURINAME*

Treaty of friendship, commerce, and
navigation (Article II).
Entered into force December 5, 1957.
8 UST 2043; TIAS 3942; 285 UNTS 231.

SWEDEN

Section 204 of the Immigration Act of
1990 (Pub. L. 101-649) authorized the
issuance of E-1 and E-2 visas to
citizens of Sweden if the Department
of State determined that Sweden
provides reciprocity for those visa
categories. Authorization from the
Department was granted February 20,
1992.

SWITZERLAND

Convention of friendship, commerce, and
extradition (Article I).
Entered into force November 8, 1855.
11 Stat. 587; TS 353; 11 Bevans 894.

THAILAND

Treaty of amity and economic relations
(Article I).
Entered into force June 8, 1968.
19 UST 5843; TIAS 6540; 652 UNTS
253.

TOGO

Treaty of amity and economic relations
(Article I).
Entered into force February 5, 1967.
18 UST 1; TIAS 6193; 680 UNTS 159.

TUNISIA **

Treaty concerning the reciprocal encouragement and protection of investments (Article II).
Entered into force February 7, 1993.
S. Treaty Doc. No. 6, 102d Cong., 2d Sess. (1992).

TURKEY

Treaty of establishment and sojourn (Article I).
Entered into force February 15, 1933.
47 Stat. 2432; TS 859; 11 Bevans 1127; 138 LNTS 345.
Treaty concerning the reciprocal encouragement and protection of investments (Article II).
Entered into force May 18, 1990.
S. Treaty Doc. No. 19, 99th Cong., 2d Sess. (1986).

UNITED KINGDOM ¹⁰

Convention to regulate commerce (Article I).
Entered into force July 3, 1815.
8 Stat. 228; TS 110; 12 Bevans 49.

YUGOSLAVIA ¹¹

Treaty of commerce (Article I).
Entered into force November 15, 1882.
22 Stat. 963; TS 319; 12 Bevans 1227.

ZAIRE **

Treaty concerning the reciprocal encouragement and protection of investments (Article II).
Entered into force July 28, 1989.
S. Treaty Doc. No. 17, 99th Cong., 2d Sess. (1986).

¹ **CHINA (Taiwan).** Pursuant to Section 6 of the Taiwan Relations Act, P.L. 96-8, 93 Stat. 14, and Executive Order 12143, 44 F.R. 37191, this agreement which was concluded with the Taiwan authorities prior to January 1, 1979, is administered on a nongovernmental basis by the American Institute in Taiwan, a nonprofit District of Columbia corporation, and constitutes neither recognition of the Taiwan authorities nor the continuation of any official relationship with Taiwan.

² **CZECH REPUBLIC AND SLOVAK REPUBLIC.** The treaty with the Czech and Slovak Federal Republic entered into force on December 19, 1992; entered into force for the Czech Republic and Slovak Republic as separate states on January 1, 1993.

³ **DENMARK.** The convention of 1826 does not apply to the Faroe Islands or Greenland. The Treaty which entered into force in 1961 does not apply to Greenland.

⁴ **FRANCE.** The Treaty which entered into force in 1960 applies to the departments of Martinique, Guadeloupe, French Guiana, and Reunion.

⁵ **JAPAN.** The Treaty which entered into force in 1953 was made applicable to the Bonin Islands on June 26, 1968, and to the Ryukyu Islands on May 15, 1972.

⁶ **NETHERLANDS.** The Treaty which entered into force in 1957 is applicable to Aruba and Netherlands Antilles.

⁷ **NORWAY.** The Treaty which entered into force in 1932 does not apply to Svalbard (Spitzbergen and certain lesser islands).

⁸ **SPAIN.** The Treaty which entered into force in 1903 is applicable to all territories.

⁹ **SURINAME.** The Treaty with the Netherlands which entered into force December 5, 1957, was made applicable to Suriname on February 10, 1963.

¹⁰ **UNITED KINGDOM.** The Convention which entered into force in 1815 applies only to British territory in Europe (the British Isles (except the Republic of Ireland), the Channel Islands and Gibraltar) and to "inhabitants" of such territory. This term, as used in the Convention, means "one who resides actually and permanently in a given place, and has his domicile there". Also, in order to qualify for treaty trader or treaty investor status under this treaty, the alien must be a national of the United Kingdom. Individuals having the nationality of members of the Commonwealth other than the United Kingdom do not qualify for treaty trader or treaty investor status under this treaty.

¹¹ **YUGOSLAVIA.** The former state of Yugoslavia has dissolved. The United States considers the treaty to continue to apply to all the successor states of the former Yugoslavia.

D. VISA SYMBOLS

(Source: Visa Office, Department of State; as of April 5, 1995)

The following symbols are used in issuing visas to nonimmigrants and immigrants proceeding to the United States. Unless otherwise stated, the section of law cited refers to the Immigration and Nationality Act.

Nonimmigrants

Visa Symbol	Class	Section of law
A-1	Ambassador, public minister, career diplomat or consular officer, and immediate family.	101(a)(15)(A)(i)
A-2	Other foreign government official or employee, and immediate family.	101(a)(15)(A)(ii)
A-3	Attendant, servant, or personal employee of A-1 or A-2, and immediate family.	101(a)(15)(A)(iii)
B-1	Temporary visitor for business	101(a)(15)(B)
B-2	Temporary visitor for pleasure	101(a)(15)(B)
B-1/B-2	Temporary visitor for business and pleasure	101(a)(15)(B)
C-1	Alien in transit	101(a)(15)(C)
C-2	Alien in transit to United Nations Headquarters district under Section 11 (3), (4), or (5) of the Headquarters Agreement.	101(a)(15)(C)
C-3	Foreign government official, immediate family, attendant, servant or personal employee, in transit.	212(d)(8)
D	Crewmember (sea or air)	101(a)(15)(D)
E-1	Treaty trader, spouse and children	101(a)(15)(E)(i)
E-2	Treaty investor, spouse and children	101(a)(15)(E)(ii)
F-1	Student	101(a)(15)(F)(i)
F-2	Spouse or child of F-1	101(a)(15)(F)(ii)
G-1	Principal resident representative of recognized foreign member government to international organization, staff, and immediate family.	101(a)(15)(G)(i)
G-2	Other representative of recognized foreign member government to international organization, and immediate family.	101(a)(15)(G)(ii)
G-3	Representative of nonrecognized or nonmember foreign government to international organization, and immediate family.	101(a)(15)(G)(iii)
G-4	International organization officer or employee, and immediate family.	101(a)(15)(G)(iv)
G-5	Attendant, servant, or personal employee of G-1 through G-4 and immediate family.	101(a)(15)(G)(v)
H-1A	Registered nurse	101(a)(15)(H)(i)(a)
H-1B	Alien in a specialty occupation (profession)	101(a)(15)(H)(i)(b)
H-2	Temporary worker performing services unavailable in the United States (Petition filed prior to June 1, 1987).	101(a)(15)(H)(ii)
H-2A	Temporary worker performing agricultural services unavailable in the United States (Petition filed on or after June 1, 1987).	101(a)(15)(H)(ii)(a)
H-2B	Temporary worker performing other services unavailable in the United States (Petition filed on or after June 1, 1987).	101(a)(15)(H)(ii)(b)
H-3	Trainee	101(a)(15)(H)(iii)
H-4	Spouse or child of alien classified H-1A/B, H-2A/B, or H-3.	101(a)(15)(H)(iv)
I	Representative of foreign information media, spouse and children.	101(a)(15)(I)
J-1	Exchange visitor	101(a)(15)(J)
J-2	Spouse or child of J-1	101(a)(15)(J)
K-1	Fiance(e) of United States citizen	101(a)(15)(K)
K-2	Child of fiance(e) of U.S. citizen	101(a)(15)(K)

Nonimmigrants—Continued

Visa Symbol	Class	Section of law
L-1	Intracompany transferee (executive, managerial, and specialized personnel continuing employment with international firm or corporation).	101(a)(15)(L)
L-2	Spouse or child of intracompany transferee	101(a)(15)(L)
M-1	Vocational student or other nonacademic student	101(a)(15)(M)
M-2	Spouse or child of alien classified M-1	101(a)(15)(M)
N-8	Parent of an alien classified SK-3 special immigrant	101(a)(15)(N)(i)
N-9	Child of N-8 or of an SK-1, SK-2 or SK-4 special immigrant.	101(a)(15)(N)(ii)
NATO-1	Principal permanent representative of member state to NATO (including any of its subsidiary bodies) resident in the U.S. and resident members of official staff; Secretary General, Assistant Secretaries General, and Executive Secretary of NATO; other permanent NATO officials of similar rank, and members of immediate family..	Art. 12, 5 UST 1094; Art. 20, 5 UST 1098
NATO-2	Other representatives of member states to NATO (including any of its subsidiary bodies) including representatives, advisers, and technical experts of delegations, and members of immediate family; dependents of members of a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement or in accordance with provisions of the "Protocol on the Status of International Military Headquarters"; members of such a force if issued visas..	Art. 13, 5 UST 1094; Art. 1, 4 UST 1794; Art. 3, 4 UST 1796
NATO-3	Official clerical staff accompanying a representative of member state to NATO (including any of its subsidiary bodies) and members of immediate family..	Art. 14, 5 UST 1096
NATO-4	Officials of NATO (other than those classifiable as NATO-1) and members of immediate family..	Art. 18, 5 UST 1098
NATO-5	Experts, other than officials classifiable as NATO-4, employed in missions on behalf of NATO, and their dependents..	Art. 21, 5 UST 1100
NATO-6	Members of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement; members of a civilian component attached to or employed by an Allied Headquarters under the "Protocol on the Status of International Military Headquarters" set up pursuant to the North Atlantic Treaty; and their dependents..	Art. 1, 4 UST 1794; Art. 3, 5 UST 877
NATO-7	Attendant, servant, or personal employee of NATO-1 through NATO-6 classes, and immediate family..	Arts. 12-20, 5 UST 1094-1098
O-1	Aliens with extraordinary ability in sciences, arts, education, business, or athletics.	101(a)(15)(O)(i)
O-2	Accompanying alien	101(a)(15)(O)(ii)
O-3	Spouse/child of O-1 or O-2	101(a)(15)(O)(iii)
P-1	Internationally recognized athlete or member of internationally recognized entertainment group.	101(a)(15)(P)(i)
P-2	Artist or entertainer in a reciprocal exchange program.	101(a)(15)(P)(ii)
P-3	Artist or entertainer in a culturally unique program ..	101(a)(15)(P)(iii)
Q-1	Participant in an international cultural exchange program.	101(a)(15)(Q)
R-1	Alien in a religious occupation	101(a)(15)(R)
R-2	Spouse/child of R-1	101(a)(15)(R)
S-1	Certain aliens supplying critical information relating to a criminal organization or enterprise.	101(a)(15)(S)(i)
S-2	Certain aliens supplying information relating to terrorism.	101(a)(15)(S)(ii)
TN	NAFTA professional	214(e)(2)

Nonimmigrants—Continued

Visa Symbol	Class	Section of law
TD	Spouse/child of alien classified TN	214(e)(2)

[Note: Pursuant to Articles 3, 12, 13, 14, 18, and 20 of the Agreement on the Status of the Northern Atlantic Treaty Organization, National Representations and International Staff, [5 U.S.T. 877, 1094], 22 CFR 41.70 provides as follows:

§ 41.70 NATO representatives, officials, and employees.

(a)(1) An alien shall be classifiable under the symbol NATO-1, NATO-2, NATO-3, NATO-4, or NATO-5 (see § 41.12 for classes of aliens entitled to classification under each symbol) if he establishes to the satisfaction of the consular officer that he is seeking admission to the United States under the applicable provision of the Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff, or that he is a member of the immediate family of an alien classified under the symbol NATO-1, NATO-2, NATO-3, NATO-4, or NATO-5.

(2) Armed services personnel entering the United States in accordance with the provisions of the NATO Status-of-Forces Agreement or in accordance with the provisions of the Protocol on the Status of International Military Headquarters may enter the United States under the appropriate treaty waiver of documentary requirements contained in § 41.5 (d) or (e), but if issued visas shall be classifiable under the symbol NATO-2.

(3) Dependents of armed services personnel referred to in paragraph (a)(2) shall be classifiable under the symbol NATO-2.

(b) An alien member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, and alien's dependents, or an alien member of a civilian component attached to or employed by an Allied Headquarters under the Protocol on the Status of International Military Headquarters set up pursuant to the North Atlantic Treaty, and the alien's dependents, shall be classifiable under the symbol NATO-6.

(c) An alien attendant, servant, or personal employee of an alien classified under the symbol NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, or NATO-6, and the members of the immediate family of such attendant, servant, or personal employee, shall be classified under the symbol NATO-7.]

***Immigrants
Immediate Relatives***

Visa Symbol	Class	Section of law
IR-1	Spouse of U.S. citizen	201(b)
CR-1	Spouse of U.S. citizen (conditional status)	201(b) & 216(a)(1)
IW-1	Certain spouses of deceased U.S. citizens	201(b)
IR-2	Child of U.S. citizen	201(b)
CR-2	Child of U.S. citizen (conditional status)	201(b) & 216
IR-3	Orphan adopted abroad by U.S. citizen	201(b)
IR-4	Orphan to be adopted in the United States by U.S. citizen.	201(b)
IR-5	Parent of U.S. citizen at least 21 years of age	201(b)
VI-5	Parent of U.S. citizen who acquired permanent resident status under the Virgin Islands Non-immigrant Alien Adjustment Act.	201(b) & Sec. 2 of the Virgin Islands Non-immigrant Alien Adjustment Act (P.L. 97-271)

Vietnam Amerasian Immigrants

Visa Symbol	Class	Section of law
AM-1	Vietnam Amerasian Principal	584(b)(1)(A) of P.L. 100-202
AM-2	Spouse/Child of AM-1	584(b)(1)(B) of P.L. 100-202
AM-3	Natural mother of unmarried AM-1 (and spouse or child of such mother), or person who has acted in effect as the mother, father, or next-of-kin of unmarried AM-1 (and spouse or child of such person).	584(b)(1)(C) of P.L. 100-202

Special Immigrants

Visa Symbol	Class	Section of law
SB-1	Returning resident	101(a)(27)(A)
SC-1	Person who lost U.S. citizenship by marriage	101(a)(27)(B) & 324(a)
SC-2	Person who lost U.S. citizenship by serving in foreign armed forces.	101(a)(27)(B) & 327

Family-Sponsored Preferences
1st Preference

Visa Symbol	Class	Section of law
F11	Unmarried son/daughter of U.S. citizen	203(a)(1)
F12	Children of F11	203(d)

2nd Preference (Exempt from Country Limitations)

Visa Symbol	Class	Section of law
FX1	Spouses of alien residents	203(a)(2)(A)
CX1	Spouses of alien residents (conditional)	216(a)(1)
FX2	Children of alien residents	203(a)(2)(A)
CX2	Children of alien residents (conditional)	216(a)(1)
FX3	Children of FX2	203(d)
CX3	Children of CX1 & CX2 (conditional)	216(a)(1)
F24	Unmarried son/and daughter of alien residents	203(a)(2)(B)
C24	Unmarried son/and daughter of alien residents (conditional)	216(a)(1)
F25	Children of F24	203(d)
C25	Children of C24	216(a)(1)

3rd Preference

Visa Symbol	Class	Section of law
F31	Married son/daughter of U.S. citizen	203(a)(3)
C31	Married son/daughter of U.S. citizen (conditional)	216(a)(1)
F32	Spouses of F31	203(d)
C32	Spouses of C31	203(d)
F33	Children of F31	203(d)
C33	Children of C31	203(d)

4th Preference

Visa Symbol	Class	Section of law
F41	Brother/sister of U.S. citizen	203(a)(4)
F42	Spouse of F41	203(d)
F43	Children of F41	203(d)

Employment-Based Preferences
1st Preference (Priority Workers)

Visa Symbol	Class	Section of law
E11	Aliens with extraordinary ability	203(b)(1)(A)
E12	Outstanding professors or researchers	203(b)(1)(B)
E13	Multinational executives or managers	203(b)(1)(C)
E14	Spouse of alien classified E11, E12, or E13	203(d)
E15	Child of alien classified E11, E12, or E13	203(d)

2nd Preference (Professionals Holding Advanced Degrees or Persons of Exceptional Ability)

Visa Symbol	Class	Section of law
E21	Professional holding advanced degree or of exceptional ability.	203(b)(2)

**2nd Preference (Professionals Holding Advanced Degrees or
Persons of Exceptional Ability)—Continued**

Visa Symbol	Class	Section of law
E22	Spouse of alien classified E21	203(d)
E23	Child of alien classified E21	203(d)

**3rd Preference (Skilled Workers, Professionals, and Other
Workers)**

Visa Symbol	Class	Section of law
E31	Skilled worker	203(b)(3)(A)(i)
E32	Professionals holding baccalaureate degree	203(b)(3)(A)(ii)
E33	Spouse of alien classified E31 or E32	203(d)
E34	Child of alien classified E31 or E32	203(d)
EW3	Other workers (subgroup numerical limit)	203(b)(3)(A)(iii)
EW4	Spouse of alien classified EW3	203(d)
EW5	Child of alien classified EW3	203(d)

4th Preference (Certain Special Immigrants)

Visa Symbol	Class	Section of law
SD-1	Minister of religion	101(a)(27)(C)
SD-2	Spouse of alien classified SD-1	101(a)(27)(C)
SD-3	Child of alien classified SD-1	101(a)(27)(C)
SE-1	Certain employees or former employees of the U.S. Government abroad.	101(a)(27)(D)
SE-2	Spouse of alien classified SE-1	101(a)(27)(D)
SE-3	Child of alien classified SE-1	101(a)(27)(D)
SF-1	Certain former employees of the Panama Canal Com- pany or Canal Zone Government.	101(a)(27)(E)
SF-2	Spouse or child of alien classified SF-1	101(a)(27)(E)
SG-1	Certain former employees of the U.S. Government in the Panama Canal Zone.	101(a)(27)(F)
SG-2	Spouse or child of alien classified SG-1	101(a)(27)(F)
SH-1	Certain former employees of the Panama Canal Com- pany or Canal Zone Government on April 1, 1979.	101(a)(27)(G)
SH-2	Spouse or child of alien classified SH-1	101(a)(27)(G)
SJ-1	Certain foreign medical graduates (adjustments only)	101(a)(27)(H)
SJ-2	Accompanying spouse or child of an alien classified SJ-1 (certain foreign medical graduates).	101(a)(27)(H)
SK-1	Certain retired international organization employees .	101(a)(27)(I)(iii)
SK-2	Spouse of alien classified SK-1	101(a)(27)(I)(iv)
SK-3	Certain unmarried sons or daughters of international organization employees.	101(a)(27)(I)(i)
SK-4	Certain surviving spouses of deceased international organization employees.	101(a)(27)(I)(ii)
SL-1	Juvenile court dependents	101(a)(27)(J)
SM-1	Alien recruited outside the United States who has served or is enlisted to serve in the U.S. Armed Forces for 12 years (became eligible after the date of enactment).	101(a)(27)(K)
SM-2	Spouse of alien classified SM-1	101(a)(27)(K)
SM-3	Child of alien classified SM-1	101(a)(27)(K)
SM-4	Alien recruited outside the United States who has served or is enlisted to serve in the U.S. Armed Forces for 12 years (became eligible as of the date of enactment).	101(a)(27)(K)
SM-5	Spouse or child of alien classified SM-4	101(a)(27)(K)
SR-1	Certain religious workers	101(a)(27)(C)(ii)(II) and (III)

4th Preference (Certain Special Immigrants)—Continued

Visa Symbol	Class	Section of law
SR-2	Spouse of alien classified SR-1	101(a)(27)(C)(ii)(II) and (III)
SR-3	Child of alien classified SR-1	101(a)(27)(C)(ii)(II) and (III)

5th Preference (Employment Creation) (Conditional Status)

Visa Symbol	Class	Section of law
C51	Employment creation outside targeted area	203(b)(5)(A)
C52	Spouse of alien classified C51	203(d)
C53	Child of alien classified C51	203(d)
T51	Employment creation in targeted area	203(b)(5)(B)
T52	Spouse of alien classified T51	203(d)
T53	Child of alien classified T51	203(d)

Diversity Immigrants

Visa Symbol	Class	Section of law
DV-1	Diversity immigrant	203(c)
DV-2	Spouse of DV1	203(c)
DV-3	Child of DV1	203(c)

Other Numerically Limited Categories**Transition for Employees of Certain U.S. Businesses in Hong Kong (Fiscal Years 1991-1993)**

Visa Symbol	Class	Section of law
HK-1	Employee of U.S. Business in Hong Kong	Sec. 124 of the Immigration Act of 1990
HK-2	Spouse of alien classified HK-1	Sec. 124 of the Immigration Act of 1990
HK-3	Child of alien classified HK-1	Sec. 124 of the Immigration Act of 1990

Diversity Transition Program for Natives of Certain Adversely Affected Foreign States (Fiscal Years 1992-1994, Extended Through Fiscal Year 1995)

Visa Symbol	Class	Section of law
AA-1	Diversity transition immigrant	Sec. 132 of the Immigration Act of 1990
AA-2	Spouse of alien classified AA-1	Sec. 132 of the Immigration Act of 1990
AA-3	Child of alien classified AA-1	Sec. 132 of the Immigration Act of 1990

E. LIST OF SELECTED FORMS USED IN VISA WORK

(Source: Visa Office, Department of State; as of April 1, 1995)

DEPARTMENT OF STATE

<i>Form Number</i>	<i>Title</i>
DSP-117	Application to Determine Returning Resident Status.
DSP-122	Supplemental Registration for the Diversity Immigrant Visa Program.
OF-155A	Immigrant Visa and Alien Registration.
OF-156	Nonimmigrant Visa Application.
OF-156K	Fiance(e) Application.
OF-157	Medical Examination.
OF-166	Request for Clearance and/or Visa File or Transfer of Visa File.
OF-167	Information Sheet "Evidence Which May Be Presented to Meet The Public Charge Provisions of the Law".
OF-168	General Information for Applicants for Immigrant Visas.
OF-169	Immigrant Visa Instructions, Packet 3.
OF-171	Appointment Letter for Immigrants—Packet 4.
OF-172	Information Sheet: Labor Certification.
OF-183	Visa Look-Out Card.
OF-186	Immigrant Visa and Visa Workload Monthly Report.
OF-186(A)	Semiannual Report of Nonimmigrant Visas Issued and Refused.
OF-194	Refusal Letter and Refusal Worksheet.
OF-221	Two-way Visa Action Request & Response.
OF-224	Immigrant Visa Control Card.
OF-224A	Cross-Reference Card.
OF-224B	Immigrant Visa Control Card.
OF-227	Memorandum of Action in Visa Case.
OF-228	Request for Information From or Report to US INS Concerning an Individual Alien.
OF-230	Application for Immigrant Visa and Alien Registration.
Part I	Biographic Data.
Part II	Sworn Statement.
OF-231	Card Index Charge-out Card.
OF-232	Form used in lieu of passport for NIV stamp.
OF-233	Consular Cash Receipt.
OF-236	Request for Transfer of Visa File.
OF-237	Statement of Marriageable Age Applicant (Issued Visa as Child).
FS-469	Annual Report of Qualified Visa Applicants.
FS-470	Immigrant Visa Allocation Control Sheet.
FS-551	Statement Acknowledging Visa Ineligibility of Family Member.
FS-552	Certificate Regarding Documents Required by §42.65(b) Which are Unobtainable.
DSL-836a	Information Regarding Posting of Public Charge Bond.
DSL-851	Classes of Aliens Ineligible to Receive Visas.
DSL-851A	Brief Description of Classes of Aliens Ineligible to Receive Visas.
DSL-856	Information Sheet: Temporary Workers.
DSL-856a	Information Sheet: Intra-Company Transferees.
DSL-858	Information Sheet: Exchange Visitors.
DSL-859	General Information For Applicants for Visitor Visas.
DSL-869a	Form Letter Transmitting Packet 3(a).
DSL-988	Form Letter Transmitting Packet 2(a), (b), or (c).
DSL-999	Information Sheet: Visas for Treaty Traders and Treaty Investors.
DSL-1011	Information Sheet: Fiancees/Fiances.
DSL-1045	Form Letter re. Cancellation of Registration under INA 203(g).
DSL-1046	Final Notice of Cancellation of Registration under INA 203(g).

DEPARTMENT OF STATE—CONTINUED

<i>Form Number</i>	<i>Title</i>
DSL-1055	General Information—Students.
DSL-1073	Form Letter re. Cancellation of Registration.
DSL-1074	Acknowledgement by Conditional Entrant.
DSL-1075	Nonimmigrant Visa Refusal Letter.
DSL-1076	Letter to Fiance(e) Petition Beneficiary.
DSL-1078	Information Sheet: AA-1 Applicants.
DSL-1081	Information Sheet: Requirements for Employment-based Immigrants.
DSL-1083	Immigrant Visa Supplemental Information—Police Certificates.
DSL-1085	Information Sheet: Religious Workers.
DSL-1810	Notice of Duty to Register with U.S. Selective Service.
DSL-1858	Sponsor's Financial Responsibility Under the Social Security Act
DS-1884	Petition to Classify Employee or Retiree under INA 203(b)(4).

DEPARTMENT OF LABOR

<i>Form Number</i>	<i>Title</i>
ETA-750 A	Application for Alien Employment (Offer of Employment).
ETA-750 B	Statement of Qualifications of Alien

FEDERAL BUREAU OF INVESTIGATION

<i>Form Number</i>	<i>Title</i>
I-178	Requisition for Ordering Identification Supplies.
FD-258	Applicant Fingerprint Cards (with self-addressed envelopes)

IMMIGRATION AND NATURALIZATION SERVICE

[For additional INS forms, see Appendix IX.B.]

<i>Form Number</i>	<i>Title</i>
I-20A-B	Certificate of Eligibility for Nonimmigrant (F-1) Student Status—for Academic and Language Student.
I-20M-N	Certificate of Eligibility for Nonimmigrant (M-1) Student Status—for Vocational Students.
I-90	Application to Replace Alien Registration Card.
G-94	Card Notice to Alien Regarding Mailing of Reentry Permit.
I-94	Arrival/Departure Record.
I-94W	NIV Waiver Arrival/Departure Card.
I-95AB	Alien Crewman's Landing Permit.
I-102	Application for Replacement/Initial Nonimmigrant Arrival/Departure Document.
I-129	Petition for Nonimmigrant Worker.
I-129F	Petition for Alien Fiance(e).
I-129S	Nonimmigrant Petition Based on Blanket L Petition.
I-130	Petition for Alien Relative.
I-131	Application for Travel Document.
I-134	Affidavit of Support.
I-140	Immigrant Petition for Alien Worker.
G-146	Nonimmigrant Checkout Letter.
I-175	Application for Nonresident Alien's Canadian Border Crossing Card.
I-180	Notice of Voidance of Form I-186 or Denial of Form I-190.
I-181	Memorandum of Creation of Record of Lawful Permanent Residence.
I-186	Nonresident Alien Mexican Border Crossing Card.
I-190	Application for Nonresident Alien Mexican Border Crossing Card.

IMMIGRATION AND NATURALIZATION SERVICE—CONTINUED

[For additional INS forms, see Appendix IX.B.]

<i>Form Number</i>	<i>Title</i>
I-191	Application for Advance Permission to Return to Unrelinquished Domicile.
I-192	Application for Advance Permission to Enter as Non-immigrant.
I-193	Application for Waiver of Passport and/or Visa.
I-212	Application for Permission to Reapply for Admission Into the United States After Deportation or Removal.
I-272	Form Letter Used in Connection with Form I-212.
I-275	Notice of Visa Cancellation/Border Crossing Card Voidance.
I-305	Receipt of Immigration Officer—United States Bonds or Notes, or Cash, Accepted as Security on Immigration Bond.
G-325	Biographic Information.
G-325A	Biographic Information.
G-325C	Biographic Information (Applicant for Refugee Status).
I-327	Permit to Reenter the United States.
I-352	Immigration Bond.
I-356	Request for Cancellation of Public Charge Bond.
I-360	Petition for Amerasian, Widow(er), or Special Immigrant.
I-361	Affidavit of Financial Support and Intent to Petition for Legal Custody for P.L. 97-359 Amerasian.
I-391	Notice - Immigration Bond Cancelled.
N-400	Application for Naturalization.
I-407	Abandonment by Alien of Lawful Resident Status.
I-409	Report of Deserting Crewman.
I-418	Crew List.
I-483A	Request for Information from Consular Files.
I-485	Application to Register Permanent Residence or Adjust Status.
I-508	Waiver of Rights, Privileges, Exemptions and Immunities.
I-512	Authorization for Parole of an Alien into the U.S.
I-526	Immigrant Petition by Alien Entrepreneur.
I-538	Certification by Designated School Official.
I-539	Application to Extend/Change Nonimmigrant Status.
I-551	Alien Registration Receipt Card.
N-565	Application for Replacement Naturalization/Citizenship Document.
I-571	Refugee Travel Document.
I-590	Registration for Classification as Refugee (Section 207).
I-591	Assurance by a United States Sponsor in Behalf of an Applicant for Refugee Status.
I-600	Petition to Classify Orphan as an Immediate Relative.
I-600A	Application for Advance Processing of Orphan Petition.
I-601	Application for Waiver of Grounds of Excludability.
I-602	Application by Refugee for Waiver of Grounds of Ineligibility.
I-603	Notification to Consul of Waiver of Grounds of Ineligibility.
I-604	Request for and Report on Overseas Orphan Investigation.
I-612	Application for Waiver of the Foreign Residence Requirement of Section 212(e).
I-613	Request for United States Information Agency Recommendation for Section 212(e) Waiver.
N-643	Application for Certificate of Citizenship in behalf of an Adopted Child.
G-646	Sworn Statement of Refugee Applying for Entry into the United States.
G-651	Affidavit Re Relationship for Refugee Applying for Entry into the U.S.
I-724	Application to Waive Exclusion Grounds.
I-730	Refugee/Asylee Relative Petition.
I-751	Joint Petition to Remove the Conditions on Residence.
I-765	Application for Employment Authorization.
I-791	Visa Waiver Pilot Program Information Form.

IMMIGRATION AND NATURALIZATION SERVICE—CONTINUED

[For additional INS forms, see Appendix IX.B.]

<i>Form Number</i>	<i>Title</i>
I-797	Notice of Action.
I-823	Application—Dedicated Commuter Lane Program.
I-824	Application for Action on Approved Application or Petition.

CUSTOMS SERVICE

<i>Form Number</i>	<i>Title</i>
7507	General Information

INTERNAL REVENUE SERVICE

<i>Form Number</i>	<i>Title</i>
Form 9003	Additional Questions for all Applicants for Permanent Residence

PUBLIC HEALTH SERVICE

<i>Form Number</i>	<i>Title</i>
PHS-731	International Certificate of Vaccination

SELECTIVE SERVICE SYSTEM

<i>Form Number</i>	<i>Title</i>
SSS-725	Authorization for Release of Information

SOCIAL SECURITY ADMINISTRATION

<i>Form Number</i>	<i>Title</i>
SS-5	Application for a Social Security Number

UNITED STATES INFORMATION AGENCY

<i>Form Number</i>	<i>Title</i>
IAP-66	Certificate of Eligibility for Exchange Visitor (J-1) Status

F. OFFICES OF STATE DEPARTMENT

1. LIST OF AMERICAN DIPLOMATIC AND CONSULAR OFFICES ISSUING VISAS

(Source: Visa Office, Department of State; as of January 1, 1995)

[Unless otherwise indicated, American diplomatic and consular offices listed below issue both immigrant and nonimmigrant visas. However, diplomatic visas are issued abroad at American Embassies only; Consulates may issue such visas only if so authorized. The insertion of "NIV" after a diplomatic or consular office indicates that the particular office issues nonimmigrant visas only. The type of visa services provided by a post is occasionally subject to change. NOTE: The following listing should be used to determine only visa issuing posts.]

The following symbols are used to indicate the status of each office: (E) for Embassy; (CG) for Consulate General; (C) for Consulate; (BO) for Branch Office of Embassy; (LO) for Liaison Office; and (USINT) for U.S. Interests Section.

ALBANIA	BOTSWANA
Tirana (E)	Gaborone (E)
ALGERIA	BRAZIL
Algiers (E)	Brasilia (E) - NIV
ANGOLA	Porto Alegre (C) - NIV
Luanda (E) - NIV	Recife (C) - NIV
ARGENTINA	Rio de Janeiro (CG)
Buenos Aires (E)	Sao Paulo (CG) - NIV
ARMENIA	BRUNEI
Yerevan (E) - NIV	Bandar Seri Begawan (E) - NIV
AUSTRALIA	BULGARIA
Canberra (E) - NIV	Sofia (E)
Melbourne (CG) - NIV	BURKINA FASO
Perth (CG)	Ouagadougou (E)
Sydney (CG)	BURMA
AUSTRIA	Rangoon (E)
Vienna (E)	BURUNDI
AZERBAIJAN	Bujumbura (E)
Baku (E) - NIV	CAMEROON
BAHAMAS	Yaounde (E)
Nassau (E)	CANADA
BAHRAIN	Ottawa (E) - NIV
Manama (E)	Halifax (CG) - NIV
BANGLADESH	Montreal (CG)
Dhaka (E)	Quebec (CG) - NIV
BARBADOS	Toronto (CG)
Bridgetown (E)	Vancouver (CG)
BELARUS	CAPE VERDE
Minsk (E) - NIV	Praia (E)
BELGIUM	CENTRAL AFRICAN REPUBLIC
Brussels (E)	Bangui (E)
Antwerp (CG) - NIV	CHAD
BELIZE	N'Djamena (E) - NIV
Belize City (E)	CHILE
BENIN	Santiago (E)
Cotonou (E)	CHINA
BERMUDA	Beijing (E) - NIV
Hamilton (CG)	Chengdu (CG) - NIV
BOLIVIA	Guangzhou (CG)
La Paz (E)	Shanghai (CG) - NIV
	Shenyang (CG) - NIV

COLOMBIA	GUYANA
Bogota (E)	Georgetown (E)
CONGO	HAITI
Brazzaville (E)	Port-au-Prince (E)
COSTA RICA	HONDURAS
San Jose (E)	Tegucigalpa (E)
COTE D'IVOIRE	HONG KONG
Abidjan (E)	Hong Kong (CG) ¹
CROATIA	HUNGARY
Zagreb (E)	Budapest (E)
CUBA	ICELAND
Havana (USINT)	Reykjavik (E)
CYPRUS	INDIA
Nicosia (E)	New Delhi (E)
CZECH REPUBLIC	Bombay (CG)
Prague (E)	Calcutta (CG) - NIV, SB, IR-4
DENMARK	Madras (CG)
Copenhagen (E)	INDONESIA
DJIBOUTI	Jakarta (E)
Djibouti (E)	Medan (CG) - NIV
DOMINICAN REPUBLIC	Surabaya (CG) - NIV
Santo Domingo (E)	IRELAND
ECUADOR	Dublin (E)
Quito (E) - NIV	ISRAEL
Guayaquil (CG)	Tel Aviv (E)
EGYPT	ITALY
Cairo (E)	Rome (E) - NIV
EL SALVADOR	Florence (CG) - NIV (for San Marino
San Salvador (E)	Residents only)
EQUATORIAL GUINEA	Milan (CG) - NIV
Malabo (E) - NIV	Naples (CG)
ERITREA	JAMAICA
Asmara (E) - NIV	Kingston (E)
ESTONIA	JAPAN
Tallinn (E) - NIV	Tokyo (E)
ETHIOPIA	Fukuoka (C) - NIV
Addis Ababa (E)	Naha, Okinawa (CG)
FIJI	Osaka-Kobe (CG) - NIV
Suva (E)	Sapporo (CG) - NIV
FINLAND	JERUSALEM
Helsinki (E)	Jerusalem (CG)
FRANCE	JORDAN
Paris (E)	Amman (E)
Bordeaux (CG) - NIV	KAZAKHSTAN
Marseille (CG) - NIV	Almaty (E) - NIV
GABON	KENYA
Libreville (E)	Nairobi (E)
GAMBIA, THE	KOREA
Banjul (E)	Seoul (E)
GEORGIA	KUWAIT
Tbilisi (E) - Limited NIV	Kuwait (E)
GERMANY	KYRGYZSTAN
Bonn (E) - NIV	Bishkek (E) - Limited NIV's
Berlin (BO) - NIV	LAOS
Frankfurt (CG)	Vientiane (E)
Munich (CG) - NIV	LATVIA
GHANA	Riga (E) - NIV
Accra (E)	LEBANON
GREECE	Beirut (E) ²
Athens (E)	LESOTHO
GUATEMALA	Maseru (E) - NIV
Guatemala (E)	LIBERIA
GUINEA	Monrovia (E)
Conakry (E) - NIV	LITHUANIA
GUINEA-BISSAU	Vilnius (E) - NIV
Bissau (E) - NIV	LUXEMBOURG
	Luxembourg (E) - NIV

MADAGASCAR	PANAMA
Antananarivo (E)	Panama (E)
MALAWI	PAPUA NEW GUINEA
Lilongwe (E)	Port Moresby (E)
MALAYSIA	PARAGUAY
Kuala Lumpur (E)	Asuncion (E)
MALI	PERU
Bamako (E)	Lima (E)
MALTA	PHILIPPINES
Valletta (E)	Manila (E)
MARSHALL ISLANDS, REPUBLIC OF	POLAND
Majuro (E) - NIV	Warsaw (E)
MAURITANIA	Krakow (CG) - NIV
Nouakchott (E) - NIV	PORTUGAL
MAURITIUS	Lisbon (E)
Port Louis (E)	Ponta Delgada, Azores (C)
MEXICO	QATAR
Mexico, D.F. (E) - NIV	Doha (E)
Ciudad Juarez (CG)	ROMANIA
Guadalajara (CG) - NIV	Bucharest (E)
Hermosillo (C) - NIV	RUSSIA (RUSSIAN FEDERATION)
Matamoros (C) - NIV	Moscow (E)
Merida (C) - NIV	St. Petersburg (CG) - NIV
Monterrey (CG) - NIV	Vladivostok (CG) - NIV
Tijuana (CG)	RWANDA
MICRONESIA, FEDERATED STATES OF	Kigali (E)
Kolonia (E) - NIV	SAUDI ARABIA
MOLDOVA	Riyadh (E)
Chisinau (E) - Limited NIV	Jeddah (CG) - NIV
MONGOLIA	SENEGAL
Ulaanbaatar (E) - NIV	Dakar (E)
MOROCCO	SERBIA AND MONTENEGRO
Rabat (E) - NIV	Belgrade (E)
Casablanca (CG)	SEYCHELLES
MOZAMBIQUE	Victoria (E)
Maputo (E)	SIERRA LEONE
NAMIBIA	Freetown (E)
Windhoek (E) - NIV	SINGAPORE
NEPAL	Singapore (E)
Kathmandu (E)	SLOVAKIA
NETHERLANDS	Bratislava (E) - NIV
Amsterdam (CG)	SLOVENIA
NEW ZEALAND	Ljubljana (E) - NIV
Wellington (E) - NIV	SOUTH AFRICA
Auckland (CG)	Pretoria (E) - NIV (Dipl. & Official)
NICARAGUA	Cape Town (CG) - NIV
Managua (E)	Durban (CG) - NIV
NIGER	Johannesburg (CG)
Niamey (E)	SPAIN
NIGERIA	Madrid (E)
Lagos (E)	SRI LANKA
Abuja (LO) - NIV (officials only)	Colombo (E)
NORWAY	SUDAN
Oslo (E)	Khartoum (E) - NIV
OMAN	SURINAME
Muscat (E)	Paramaribo (E)
PAKISTAN	SWAZILAND
Islamabad (E) - NIV	Mbabane (E) - NIV
Karachi (CG)	SWEDEN
Lahore (CG)	Stockholm (E)
PALAU	SWITZERLAND
Koror (Office of Resident Representative) - NIV	Bern (E)
	Zurich (CG) - NIV
	SYRIA
	Damascus (E)

TAJIKISTAN Dushanbe (E) - NIV (Diplomatic & Official)	UNITED ARAB EMIRATES Abu Dhabi (E) Dubai (CG) - NIV
TANZANIA Dar es Salaam (E)	UNITED KINGDOM London (England) (E) Belfast (Northern Ireland) (CG) - NIV
THAILAND Bangkok (E) Orderly Departure Program ³ Chiang Mai (CG) - NIV	URUGUAY Montevideo (E)
TOGO Lome (E)	UZBEKISTAN Tashkent (E) - NIV
TRINIDAD AND TOBAGO Port-of-Spain (E)	VENEZUELA Caracas (E)
TUNISIA Tunis (E)	WESTERN SAMOA Apia (E) - NIV (Diplomatic, Official & Emergency)
TURKEY Ankara (E) Istanbul (CG)	YEMEN Sanaa (E)
TURKMENISTAN Ashgabat (E) - Limited NIV	ZAIRE Kinshasa (E)
UGANDA Kampala (E)	ZAMBIA Lusaka (E)
UKRAINE Kiev (E) - NIV (by appt only)	ZIMBABWE Harare (E)

¹ The American Institute in Taiwan (AIT) preprocesses visa cases for residents of Taiwan.

² Regular visa services in Beirut have been temporarily suspended. IV files have been transferred to Abu Dhabi.

³ The Orderly Departure Program (ODP) at Embassy Bangkok processes IVs for residents of Vietnam; Refugee Affairs Office at Embassy Bangkok also processes certain IVs.

2. ALPHABETICAL LISTING OF VISA ISSUING POSTS

(Source: Visa Office, Department of State; as of January 1, 1995)

ABBREVIATIONS USED

A—Foreign Gov't Officials Category	K—Fiance(e) Category
BO—Branch Office of Embassy	LO—Liaison Office
C—Consulate	M—Mission
CG—Consulate General	NIV—Nonimmigrant Visas
E—Embassy	USINT—U.S. Interests Section
G—Int'l Organization Aliens Category	USRO—U.S. Representative Office
IV—Immigrant Visas	

VISA ISSUING POSTS

Post/Country	Designation of Post	Visa Services Performed
Abidjan, Cote d'Ivoire	E	All
Abu Dhabi, United Arab Emirates	E	All
Abuja, Nigeria	BO	NIV (Official)
Accra, Ghana	E	All
Addis Ababa, Ethiopia	E	All
Algiers, Algeria	E	All
Almaty, Kazakhstan	E	NIV
Amman, Jordan	E	All
Amsterdam, Netherlands	CG	All
Ankara, Turkey	E	All
Antananarivo, Madagascar	E	All
Apia, Western Samoa	E	A, G, and Emergency NIVs
Ashgbat, Turkmenistan	E	NIV (Limited)
Asmara, Eritrea	E	NIV
Asuncion, Paraguay	E	All
Athens, Greece	E	All
Auckland, New Zealand	CG	All
Baku, Azerbaijan	E	NIV
Bamako, Mali	E	All
Bandar Seri Begawan, Brunei	E	NIV
Bangkok, Thailand	E	All ¹
Bangui, Central African Republic	E	All
Banjul, The Gambia	E	All
Beijing, China	E	NIV
Beirut, Lebanon	E	²
Belfast, Northern Ireland, U.K.	CG	NIV
Belize City, Belize	E	All
Berlin, Republic of Germany	BO	NIV
Bern, Switzerland	E	All
Bishkek, Kyrgyzstan	E	NIV (Limited)
Bissau, Guinea-Bissau	E	NIV
Bogota, Columbia	E	All
Bombay, India	CG	All
Bonn, Germany	E	NIV
Bordeaux, France	CG	NIV
Brasilia, Brazil	E	NIV
Bratislava, Slovakia	E	NIV
Brazzaville, Congo	E	All
Bridgetown, Barbados	E	All
Brussels, Belgium	E	All
Bucharest, Romania	E	All
Budapest, Hungary	E	All
Buenos Aires, Argentina	E	All
Bujumbura, Burundi	E	All
Cairo, Egypt	E	All
Calcutta, India	CG	NIV, SB, IR-4
Canberra, Australia	E	NIV
Cape Town, South Africa	CG	NIV
Caracas, Venezuela	E	All
Casablanca, Morocco	CG	All

VISA ISSUING POSTS—CONTINUED

Post/Country	Designation of Post	Visa Services Performed
Chengdu, China	CG	NIV
Chiang Mai, Thailand	CG	NIV
Ciudad Juarez, Mexico	CG	All
Colombo, Sri Lanka	E	All
Conakry, Guinea	E	NIV
Copenhagen, Denmark	E	All
Cotonou, Benin	E	All
Dakar, Senegal	E	All
Damascus, Syria	E	All
Dar es Salaam, Tanzania	E	All
Dhaka, Bangladesh	E	All
Djibouti, Djibouti	E	All
Doha, Qatar	E	All
Dubai, United Arab Emirates	CG	NIV
Dublin, Ireland	E	All
Durban, South Africa	CG	NIV
Dushanbe, Tajikistan	E	NIV (Diplomatic & Official)
Florence, Italy	CG	NIV (For San Marino Residents)
Frankfurt, Germany	CG	All
Freetown, Sierra Leone	E	All
Fukuoka, Japan	C	NIV
Gaborone, Botswana	E	All
Georgetown, Guyana	E	All
Guadalajara, Mexico	CG	NIV
Guangzhou, China	CG	All
Guatemala, Guatemala	E	All
Guayaquil, Ecuador	CG	All
Halifax, Canada	CG	NIV
Hamilton, Bermuda	CG	All
Harare, Zimbabwe	E	All
Havana, Cuba	USINT	All
Helsinki, Finland	E	All
Hermosillo, Mexico	C	NIV
Hong Kong, Hong Kong	CG	All ^a
Islamabad, Pakistan	E	NIV
Istanbul, Turkey	CG	All
Jakarta, Indonesia	E	All
Jeddah, Saudi Arabia	CG	NIV
Jerusalem, Jerusalem	CG	All
Johannesburg, South Africa	CG	All
Kampala, Uganda	E	All
Karachi, Pakistan	CG	All
Kathmandu, Nepal	E	All
Khartoum, Sudan	E	All
Kiev, Ukraine	E	NIV (appt only)
Kigali, Rwanda	E	All
Kingston, Jamaica	E	All
Kinshasa, Zaire	E	All
Kolonia, Micronesia	E	NIV
Koror, Palau	LO	NIV
Krakow, Poland	CG	NIV
Kuala Lumpur, Malaysia	E	All
Kuwait, Kuwait	E	All
Lagos, Nigeria	E	All
Lahore, Pakistan	CG	All
La Paz, Bolivia	E	All
Libreville, Gabon	E	All
Lilongwe, Malawi	E	All
Lima, Peru	E	All
Lisbon, Portugal	E	All
Ljubljana, Slovenia	E	NIV
Lome, Togo	E	All
London, England, U.K.	E	All

VISA ISSUING POSTS—CONTINUED

Post/Country	Designation of Post	Visa Services Performed
Luanda, Angola	E	NIV
Lusaka, Zambia	E	All
Luxembourg, Luxembourg	E	NIV
Madras, India	CG	All
Madrid, Spain	E	All
Majuro, Marshall Islands	E	NIV
Malabo, Equatorial Guinea	E	NIV
Managua, Nicaragua	E	All
Manama, Bahrain	E	All
Manila, Philippines	E	All
Maputo, Mozambique	E	All
Marseille, France	CG	NIV
Maseru, Lesotho	E	NIV
Matamoros, Mexico	C	NIV
Mbabane, Swaziland	E	NIV
Medan, Indonesia	CG	NIV
Melbourne, Australia	CG	NIV
Merida, Mexico	C	NIV
Mexico, D.F., Mexico	E	NIV
Milan, Italy	CG	NIV
Minsk, Belarus	E	NIV
Monrovia, Liberia	E	All
Monterrey, Mexico	CG	NIV
Montevideo, Uruguay	E	NIV
Montreal, Canada	CG	All
Moscow, Russia	E	All
Munich, Germany	CG	NIV
Muscat, Oman	E	All
Naha, Okinawa, Japan	CG	All
Nairobi, Kenya	E	All
Naples, Italy	CG	All
Nassau, The Bahamas	E	All
N'Djamena, Chad	E	NIV
New Delhi, India	E	All
Niamey, Niger	E	All
Nicosia, Cyprus	E	All
Nouakchott, Mauritania	E	NIV
Osaka-Kobe, Japan	CG	NIV
Oslo, Norway	E	All
Ottawa, Canada	E	NIV
Ouagadougou, Burkina Faso	E	All
Panama, Panama	E	All
Paramaribo, Suriname	E	All
Paris, France	E	All
Perth, Australia	CG	All
Ponta Delgada, Azores, Portugal	C	All
Port-au-Prince, Haiti	E	All
Port Louis, Mauritius	E	All
Port Moresby, Papua New Guinea	E	All
Port-of-Spain, Trinidad and Tobago ..	E	All
Prague, Czech Republic	E	All
Praia, Cape Verde	E	All
Pretoria, South Africa	E	NIV (Diplomatic and official)
Quebec, Canada	CG	All
Quito, Ecuador	E	NIV
Rabat, Morocco	E	NIV
Rangoon, Burma	E	All
Recife, Brazil	C	NIV
Reykjavik, Iceland	E	All
Riga, Latvia	E	NIV
Rio de Janeiro, Brazil	CG	All
Riyadh, Saudi Arabia	E	All
Rome, Italy	E	NIV
St. Petersburg, Russia	CG	NIV

VISA ISSUING POSTS—CONTINUED

Post/Country	Designation of Post	Visa Services Performed
San Jose, Costa Rica	E	All
San Salvador, El Salvador	E	All
Sanaa, Yemen	E	All
Santiago, Chile	E	All
Santo Domingo, Dominican Republic	E	All
Sao Paulo, Brazil	CG	NIV
Sapporo, Japan	CG	NIV
Seoul, Korea	E	All
Shanghai, China	CG	NIV
Shenyang, China	CG	NIV
Singapore, Singapore	E	All
Sofia, Bulgaria	E	All
Stockholm, Sweden	E	All
Surabaya, Indonesia	CG	NIV
Suva, Fiji	E	All
Sydney, Australia	CG	All
Tallinn, Estonia	E	NIV
Tashkent, Uzbekistan	E	NIV
Tbilisi, Georgia	E	NIV (Limited)
Tegucigalpa, Honduras	E	All
Tel Aviv, Israel	E	All
Tijuana, Mexico	CG	All
Tirana, Albania	E	All
Tokyo, Japan	E	All
Toronto, Canada	CG	All
Tunis, Tunisia	E	All
Ulaanbaatar, Mongolia	E	NIV
Valletta, Malta	E	All
Vancouver, Canada	CG	All
Victoria, Seychelles	E	All
Vienna, Austria	E	All
Vientiane, Laos	E	All
Vilnius, Lithuania	E	NIV
Vladivostok, Russia	CG	NIV
Warsaw, Poland	E	All
Wellington, New Zealand	E	NIV
Windhoek, Namibia	E	NIV
Yaounde, Cameroon	E	All
Yerevan, Armenia	E	NIV
Zagreb, Croatia	E	All
Zurich, Switzerland	CG	NIV

¹ Orderly Departure Program (ODP) processes IVs for residents of Vietnam; Refugee Affairs Office at Embassy Bangkok also processes certain IVs.

² Visa services in Beirut have been temporarily suspended. IV files have been transferred to Abu Dhabi.

³ American Institute in Taiwan office at Taipei pre-processes visa cases for residents of Taiwan.

IX. OFFICES AND FORMS OF IMMIGRATION AND NATURALIZATION SERVICE

A. LISTING OF IMMIGRATION AND NATURALIZATION SERVICE OFFICES

(Source: Immigration and Naturalization Service, Department of Justice; as of
March 17, 1995)

HEADQUARTERS: 425 I Street, N.W., Washington, DC 20536

INS SERVICE CENTERS:

75 Lower Weldon Street, St. Albans, VT 05479-0001
100 Centennial Mall North, Lincoln, NE 68508
Dept. A, P.O. Box 152122, Irving, TX 75015-2122
P.O.Box 30040, Laguna Niguel, CA 92607-0040

Eastern Operations Regional Office: 70 Kimball Avenue, South Burlington, VT
05403-6813

Atlanta District Office: 77 Forsyth Street, S.W., Atlanta, GA 30303-0253

Charlotte Sub-Office: 6 Woodlawn Green, Room 138, Charlotte, NC 28217

Baltimore District Office: Equitable Tower, 100 South Charles, 12th Floor, Baltimore, MD 21201

Boston District Office: John F. Kennedy Federal Building, Government Center, Room 1700, Boston, MA 02203

Hartford Sub-Office: Ribicoff Federal Building, 450 Main St., Hartford, CT 06103-3060

Providence Sub-Office: 203 John O. Pastore Federal Building, Providence, RI 02903

Buffalo District Office: 130 Delaware Avenue, Buffalo, NY 14202

Albany Sub-Office: 220 U.S. Post Office & Courthouse, 445 Broadway, Albany, NY 12207

Cleveland District Office: Anthony J. Celebreeze Federal Building, 1240 E. 9th Street, Room 1917, Cleveland, OH 44199

Cincinnati Sub-Office: J.W.P. Federal Bldg., 550 Main Street, Room 8525, Cincinnati, OH 45202

Detroit District Office: Federal Building, 333 Mt. Elliott Street, Detroit, MI 48207-4381

Miami District Office: 7880 Biscayne Blvd., Miami, FL 33138

Jacksonville Sub-Office: 400 W. Bay Street, Room G-18, P.O. Box 35029, Jacksonville, FL 32202

Tampa Sub-Office: 5509 W. Gray Street, Suite 207, Tampa, FL 33609

West Palm Beach Sub-Office: 4360 N. Lake Blvd., Suite 107, West Palm Beach, FL 33410

Newark District Office: Federal Building, 970 Broad St., Newark, NJ 07102

New Orleans District Office: Postal Services Building, 701 Loyola Avenue, Room T-8011, New Orleans, LA 70113

Louisville Sub-Office: Gene Snyder Courthouse, Room 604, 601 West Broadway, Louisville, KY 40202

Memphis Sub-Office: 245 Wagner Place, Suite 250, Memphis, TN 38103

New York District Office: 26 Federal Plaza, New York, N.Y. 10278

Philadelphia District Office: 1600 Callowhill St., Philadelphia, PA 19130

Pittsburg Sub-Office: 2130 Federal Building, 1000 Liberty Avenue, Pittsburg, PA 15222

Portland District Office: 739 Warren Ave., Portland, ME 04103
St. Albans Sub-Office: Federal Building, P.L. Box 328, St. Albans, VT 05478
San Juan District Office: New Federal Building, 3rd Floor, Carlos Chardron Street, Hato Rey, PR 00918
Charlotte Amalie, St. Thomas Sub-Office: Federal District Court Building, P.O. Box 610, Charlotte Amalie, St. Thomas, VI 00801
Washington (Arlington) District Office: 4420 North Fairfax Drive, Arlington, VA 22203
Norfolk Sub-Office: Norfolk Federal Bldg., 200 Granby Mall, Room 439, Norfolk, VA 23510-1882

Central Operations Regional Office: 7701 North Stemmons Freeway, Dallas, TX 75247

Chicago District Office: 19 West Jackson Blvd., Suite 600, Chicago, IL 60604
Indianapolis Sub-Office: Gateway Plaza, Room 400, 900 North Meridian Street, Indianapolis, IN 46204
Milwaukee Sub-Office: Federal Bldg., Room 186, 517 E. Wisconsin Avenue, Milwaukee, WI 53202
Dallas District Office: 8101 N. Stemmons Freeway, Dallas, TX 75247
Oklahoma City Sub-Office: 4149 Highline Blvd., Suite 300, Oklahoma City, OK 73108
Denver District Office: 4730 Paris Street, Albrook Center, Denver, CO 80239-2804
Salt Lake City Sub-Office: 5272 South College Drive, Suite 100, Salt Lake City, UT 84123
El Paso District Office: 1545 Hawkins, Suite 167, El Paso, TX 79925
Albuquerque Sub-Office: 517 Gold Avenue, S.W. Room 1010, P.O. Box 567, Albuquerque, NM 87103
Harlingen District Office: 2102 Teege Road, Harlingen, TX 78550
Helena District Office: Federal Building, Room 512, 301 South Park, Drawer 10036, Helena, MT 59626
Houston District Office: 509 North Sam Houston Pkwy. East, Houston TX 77060
Kansas City District Office: 9747 North Conant Ave., Kansas City, MO 64153
St. Louis Sub-Office: Robert A. Young Federal Building, 1222 Spruce St., Room 1.100, St. Louis, MO 63103-2815
Omaha District Office: 3736 South 132nd St., Omaha, NE 68144
San Antonio District Office: U.S. Federal Building, 8940 Four Winds Drive, San Antonio, TX 78239
St. Paul District Office: 2901 Metro Drive, Suite 100, Bloomington, MN 55425

Western Operations Regional Office: 24000 Avila Road, P.O. Box 3008, Laguna Niguel, CA 92607-0080

Anchorage District Office: 620 East 10th Avenue, Suite 102, Anchorage, AK 99501-3708
Honolulu District Office: 595 Ala Moana Blvd., Honolulu, HI 96813
Agana Sub-Office: Pacific News Bldg., Room 801, 235 Archbishop Flores St., Agana, GU 96910
Los Angeles District Office: 300 North Los Angeles St., Los Angeles, CA 90012
Phoenix District Office: 2035 North Central Ave., Phoenix, AZ 85004
Las Vegas Sub-Office: 3373 Pepper Lane, Las Vegas, NV 89120
Reno Sub-Office: 1351 Corporate Blvd., Reno, NV 89502-7102
Portland District Office: Federal Office Building, 511 N.W. Broadway, Portland, OR 97209
San Diego District Office: 880 Front St., Suite 1234, San Diego, CA 92101-8834
San Francisco District Office: 630 Sansome Street, San Francisco, CA 94111-2280
Fresno Sub-Office: 865 Fulton Mall, Fresno, CA 93721-2816
Sacramento Sub-Office: 711 "J" St., Sacramento, CA 95814
San Jose Sub-Office: 280 S. First St., Room 1150, San Jose, CA 95113
Seattle District Office: 815 Airport Way, South, Seattle, WA 98134
Spokane Sub-Office: 691 U.S. Courthouse Building, Spokane, WA 99201 (Mailing Address - P.O. Box 18930, Spokane, WA 99208)

Overseas Mailing Addresses**Aruba**

Senior Immigration Inspector
U.S. Immigration and Naturalization Service
P.O. Box 9009
Miami, FL 33159

Austria

Office In Charge
U.S. Immigration and Naturalization Service
c/o American Embassy, Vienna, Austria
Box 21 Department of State
Washington, DC 20521-9900

England

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Embassy, London, England
PSC 801 Box 6-INS
FPO AE 09498-4006

Germany

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Consulate General, Frankfurt, Germany
PSC 115 - Frankfurt
APO AE 09213

Greece

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Embassy, Athens, Greece
PSC 108 Box 25
APO AE 09842

Haiti

Officer In Charge
U.S. Immigration and Naturalization Service
Port-Au-Prince
Department of State
Washington, DC 20521-3400

Honduras

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Embassy, Tegucigalpa, Honduras
Unit 2901
APO AA 34022

Hong Kong

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Consulate General, Hong Kong
PSC 464 Box 30
FPO AP 96522-0002

India

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Embassy, New Delhi, India
U.S. Department of State
Washington, DC 20520-9000

Ireland

Port Director
U.S. Immigration and Naturalization Service
c/o Aer-Rianta
Shannon International Airport
Shannon, County Clare, Ireland

Italy

District Director
U.S. Immigration and Naturalization Service
c/o American Embassy, Rome, Italy
PSC 59 Box 100
APO AE 09624

Kenya

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Embassy, Nairobi, Kenya
Unit 64100 Box 21
APO AE 09831-4100

Korea

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Embassy, Seoul, Korea
Unit 15550
APO AP 96205-0001

Mexico

Officer In Charge
U.S. Immigration and Naturalization Service
c/o U.S. Consulate General, Ciudad Juarez
P.O. Box 9896
El Paso, TX 79989-9896

District Director
U.S. Immigration and Naturalization Service
c/o American Embassy, Mexico City
P.O. Box 3087, Room 118
Laredo, TX 78044

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Consulate General, Monterrey
P.O. Box 3098 (MTR)
Laredo, TX 78044

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Consulate General, Tijuana
P.O. Box 499039
San Diego, CA 92143-9039

Pakistan

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Consulate General, Karachi, Pakistan
Unit 62400 Box 131
APO AE 09814-2000

Philippines

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Embassy, Manila, Philippines
APO AP 96440

Russia

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Embassy, Moscow, Russia
PSC 77
APO AE 09721

Singapore

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Embassy, Singapore
FPO AP 96534-0006

Thailand

District Director
U.S. Immigration and Naturalization Service
c/o American Embassy, Bangkok, Thailand
Box 12
APO AP 96546

B. ADDITIONAL FORMS OF THE IMMIGRATION AND NATURALIZATION SERVICE

(Source: Immigration and Naturalization Service, Department of Justice; as of March 17, 1995. NOTE: These are in *addition* to the INS forms, used in visa work, listed in Appendix VIII.E.)

<i>Form Number</i>	<i>Title</i>
AR-11	Alien Change of Address Card.
G-28	Notice of Entry of Appearance as Attorney or Representative.
G-56	General Call-in Letter.
G-79A	Data Relating to Beneficiary of Private Bill.
G-94	Document Transmittal Notice.
G-146	Nonimmigrant Checkout Letter.
G-340	Report of Alien Person Institutionalized.
G-620	Blood Group, Blood Type and RH Factor Test.
G-639	Freedom of Information/Privacy Act Request.
G-646	Sworn Statement of Refugee Applying for Entry into the United States.
G-845	Documentation Verification Request.
G-854	Application/Petition Acknowledgement/Fee Receipt.
I-9	Employment Eligibility Verification.
I-17	Petition for Approval of School for Attendance by Nonimmigrant Students.
I-20AB/I-20ID	Certificate of Eligibility For Nonimmigrant (F-1) Student Status—For Academic and Language Students.
I-20MN	Certificate of Eligibility for Nonimmigrant (M-1) Student Status—For Vocational Students.
I-43	Baggage and Personal Effects of Detained Alien.
I-68	Canadian Border Boat Landing Permit.
I-72	Form Letter for Returning Deficient Applications/Petitions.
I-90	Application to Replace Alien Registration Card.
I-92	Aircraft/Vessel Report.
I-102	Application for Replacement/Initial Nonimmigrant Arrival/Departure Document.
I-104	Alien Address Report Card.
I-129	Petition for Nonimmigrant Worker.
I-129F	Petition for Alien Fiance(e).
I-129S	Nonimmigrant Petition Based on Blanket L Petition.
I-130	Petition for Alien Relative.
I-131	Application for Travel Document.
I-134	Affidavit of Support.
I-140	Immigrant Petition for Alien Worker.
I-171	Notice of Approval of Relative Immigrant Visa Petition.
I-171C	Notice of Approval or Extension of Nonimmigrant Visa Petition of H or L Alien.
I-171F	Notice of Approval of Nonimmigrant Visa Petition for Fiance or Fiancee.
I-171H	Notice of Favorable Determination Concerning Application for Advance Processing of Orphan Petition.
I-175	Application for Nonresident Alien's Canadian Border Crossing Card.
I-180	Notice of Voidance of Form I-186 or Denial of Form I-190.
I-181	Memorandum of Creation of Record of Lawful Permanent Residence.
I-185	Nonresident Alien Canadian Border Crossing Card.
I-190	Application for Nonresident Alien Mexican Border Crossing Card.
I-191	Application for Advance Permission to Return to Unrelinquished Domicile.
I-192	Application for Advance Permission to Enter as Nonimmigrant.
I-193	Application for Waiver of Passport and/or Visa.
I-210	Voluntary Departure Notice.

<i>Form Number</i>	<i>Title</i>
I-212	Application for Permission to Reapply for Admission into the United States after Deportation or Removal.
I-221	Order to Show Cause and Notice of Hearing.
I-243	Application for Removal.
I-246	Application for Stay of Deportation.
I-256A	Application for Suspension of Deportation.
I-272	Letter RE Action Application for Permission to Reapply for Admission into the United States.
I-275	Notice of Visa Cancellation/Border Crossing Card Voidance.
I-290B	Notice of Appeal to the Administrative Appeals Unit.
I-291	Decision on Application for Status as Permanent Resident.
I-292	Decision.
I-305	Receipt of Immigration Officer--U.S. Bonds or Notes, or Cash, Accepted as Security on Immigration Bond.
I-327	Permit to Reenter the United States.
I-352	Immigration Bond.
I-356	Request for Cancellation of Public Charge Bond.
I-357	Welcome to the United States of America.
I-358	To Visitors Entering the United States.
I-360	Petition for Amerasian, Widow(er), or Special Immigrant.
I-361	Affidavit of Financial Support and Intent to Petition for Legal Custody for Public Law 97-359 Amerasian.
I-363	Request to Enforce Affidavit of Financial Support and Intent to Petition for Custody for Public Law 97-359 Amerasian.
I-408	Application to Payoff or Discharge Alien Crewman.
I-409	Report of Deserting Crewman.
I-418	Passenger List--Crew List.
I-438	Departure Information Card.
I-485	Application to Register Permanent Residence or Adjust Status.
I-508	Waiver of Rights, Privileges, Exemptions, and Immunities.
I-515	Notice to Student or Exchange Visitor.
I-538	Certification by Designated School Official.
I-539	Application to Extend/Change Nonimmigrant Status.
I-541	Order of Denial of Application for Extension of Stay or Student Employment or Student Transfer.
I-542	Information and Instructions to Nonimmigrants.
I-543	Order of Denial of Application for Change of Nonimmigrant Status.
I-546	Order to Appear--Deferred Inspection.
I-551	Alien Registration Receipt Card.
I-566	Interagency Record of Individual Requesting Change/Adjustment to, or from, A or G Status, or Requesting A or G Dependent Employment Authorization.
I-571	Refugee Travel Document.
I-589	Application for Asylum and for Withholding of Deportation.
I-643	Health and Human Services Statistical Data for Refugee/Asylee Adjusting Status.
I-644	Supplementary Statement for Graduate Medical Trainees.
I-688A	Employment Authorization Card.
I-690	Application for Waiver of Grounds of Excludability (under sections 245A or 210 of the Immigration and Nationality Act).
I-693	Medical Examination of Aliens Seeking Adjustment of Status.
I-694	Notice of Appeal of Decision under Section 210 or 245A of the Immigration and Nationality Act.
I-695	Application for Replacement of Form I-688A, Employment Authorization, or Form I-688, Temporary Residence Card.
I-697A	Change of Address Card for Legalization and Special Agricultural Workers (SAW) and Replacement Agricultural Workers (RAW).
I-698	Application to Adjust Status from Temporary to Permanent Resident (under Section 245A of P.L. 99-603).
I-699	Certificate of Satisfactory Pursuit.

<i>Form Number</i>	<i>Title</i>
I-730	Refugee/Asylee Relative Petition.
I-736	Guam Visa Waiver Information.
I-751	Petition To Remove Conditions on Residence.
I-760	Guam Visa Waiver Agreement.
I-765	Application for Employment Authorization.
I-775	Visa Waiver Pilot Program Carrier Agreement.
I-777	Application for Issuance or Replacement of Northern Mariana Card.
I-791	Visa Waiver Pilot Program Information Form.
I-797	Notice of Action.
I-803	Petition for Attorney General Recognition to Provide Courses of Study for Legalization: Phase II
I-805	Application for Temporary Resident Status as Replenishment Agricultural Worker (SAW) (Section 210 of the Immigration and Nationality Act).
I-817	Application for Voluntary Departure under the Family Unity Program.
I-821	Application for Temporary Protected Status.
I-824	Application for Action on an Approved Application or Petition.
I-829	Application by Entrepreneur to Remove Conditions.
I-833	INS Pass Application.
M-9	Citizenship Charts.
M-50	United States Immigration Laws—General Information.
M-76	A Welcome to U.S.A. Citizenship.
M-122	Availability of Citizenship Education Films.
M-132	Education Requirements for Naturalized Citizenship.
M-188	Appeals and Motions.
M-195	Nonimmigrant Students and Exchange Visitors—Documentary Requirements for Admission to the United States.
M-201	Employment of F-1 and M-1 Nonimmigrant Students in the United States.
M-230	Basic Guide to Naturalization.
M-233	Directory of Voluntary Agencies.
M-249	The Immigration of Adopted and Prospective Adoptive Children.
M-250	INS Orphan Petition Procedures at a Glance.
M-272	Manual—The Immigration of Permanent Foreign Worker.
M-279	Your Job and Your Rights.
M-282	Notice to Special Agricultural Workers.
M-286	A Reference Manual for Citizenship Instruction.
M-287	Citizenship Education and Naturalization Information.
M-288	U.S. History 1600–1987, Level II.
M-289	U.S. History 1600–1987, Level I.
M-290	U.S. Government Structure, Level II.
M-291	U.S. Government Structure, Level I.
M-302	Citizenship Education & Naturalization Information, ESL.
M-303	U.S. Government Structure/English Second Language.
M-304	U.S. States History: 1600–1987/English Second Language.
M-308	Guide for SAW Applicants.
N-14A	Arrival Information.
N-17	Naturalization Requirements and General Information.
N-25	Request for Verification of Naturalization.
N-300	Application to File Declaration of Intention.
N-340	Notice of Interview.
N-400	Application for Naturalization.
N-404	Request for Withdrawal of Petition for Naturalization.
N-422	Form Letter Request for Information From Selective Service File.
N-426	Request for Certification of Military or Naval Service.
N-430	Request that Applicant for Naturalization Appear for Interview.
N-445	Notice of Naturalization Oath Ceremony.
N-455	Application for Transfer of Petition for Naturalization.

<i>Form Number</i>	<i>Title</i>
N-470	Application to Preserve Residence for Naturalization Purposes.
N-550	Certificate of Naturalization.
N-560	Certificate of Citizenship.
N-561	Certificate of Citizenship.
N-565	Application for Replacement Naturalization/Citizenship Document.
N-570	Certificate of Naturalization.
N-578	Special Certificate of Naturalization.
N-600	Application for Certificate of Citizenship.
N-644	Application for Posthumous Citizenship.

X. BRIEF HISTORY OF UNITED STATES IMMIGRATION POLICY

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A. SUMMARY

The early colonists were primarily of European stock, representing the nations which claimed the "new" land. By the end of the 18th century, a new society was effectively established here, taking its language and many of its customs from England. The mass migration of the 19th century was the result of a near perfect match between the needs of a new country and Europe. Europe at this time was undergoing drastic social change and economic reorganization, compounded by overpopulation. America needed immigrants for settlement, defense, and economic well-being. During the period 1820-1880, Germany, Great Britain, and Ireland accounted for the largest numbers.

In the last two decades of the 19th century, the volume of immigration continued to increase and the main sources shifted from Northern and Western to Southern and Eastern Europe. The Federal Government assumed an increasingly active role, with the first general immigration statute enacted in 1882. While the United States remained willing and able to absorb the mass migration during the end of the 19th and the beginning of the 20th centuries, the country's needs had changed. The frontier had closed, and the "new" immigrants, as they were characterized by the Dillingham Commission, fueled the industrialization and urbanization of America. However, there was growing ambivalence toward the urban immigrants by a predominantly rural country.

By the end of World War I, the era of mass migration was brought to a close by the enactment of increasingly restrictive legislation. Legislation enacted in 1917 codified existing restrictions and added new ones. During the 1920s, numerical restrictions were placed on immigration from the Eastern Hemisphere in the form of the national origins quota system. The 1917 and 1924 laws remained in effect until 1952. Immigration fell sharply during the intervening years in response to the depression of the 1930s and World War II, as well as the legislative restrictions.

Legislation in 1952 codified and carried forward the essential elements of the 1917 and 1924 Acts. Enacted over President Truman's veto, it reflected the cold war atmosphere and anti-communism of the period following World War II at the onset of the Korean War. While the national origins quota system remained in place until 1965, many refugees, immigrants, and legal and illegal temporary workers entered outside it. Reflecting a major change in public attitudes toward race and national origins, 1965 legislation repealed the national origins quota system, replacing it with a system based primarily on reunification of families and needed skills.

Since 1965, the major sources of immigration have shifted from Europe to Latin America and Asia, reversing the trend of two centuries. In the 1970s, the entry of aliens outside the restrictions of the basic law—both illegally as undocumented aliens, and legally as refugees—was increasingly the dominant pattern in immigration and the basis for the major issues confronting the Congress. A series of major laws were enacted in the 1980s through 1990, consisting of the Refugee Act of 1980, the Immigration Reform and Control Act of 1986, and the Immigration Act of 1990.

B. INTRODUCTION

U.S. immigration policy has been shaped not only by the perceived needs of this country, but by the needs and aspirations of the immigrants themselves. This paper reviews the major streams of immigration to the United States in the context of the country's changing views of immigration.

During the initial immigration of settlers and pioneers to the first European colonies on the North American continent, the objectives of the immigrants and their sending colonial powers were dominant—a complex blend of religious, political, and economic motives which eventually produced the new American society.

Following the establishment of the United States at the end of the 18th century, a wave of mass migration flowed from the European continent to the new nation throughout the 19th century.¹ For the immigrants, economic, religious, and political motives continued to be dominant. The United States' goals in receiving them included the need for new citizens who would participate in national economic and political growth, as well as the humanitarian desire to provide a refuge for the oppressed of other lands. During this period, there were few restrictions on the entering immigrants; our national purposes coincided with essentially unlimited immigration.

As the Nation entered the 20th century, cultural conflicts resulting from the changing ethnic character of the immigrant population from Northern and Western Europe to Southern and Eastern Europe, and economic strains in the Nation began to generate domestic political opposition to unrestricted immigration. Following World War I, this political opposition led to restrictive legislation focusing predominantly on the ethnic origins of the new immigrants, and also on the size of the immigrant flow. By the 1930s this legislation, in combination with the economic disincentive of the Great Depression, had resulted in a massive reduction in the inflow of immigrants.

Following World War II and continuing through the 1950s, the pattern of immigration as we know it today began to emerge, consisting of immigrants, refugees, and temporary and/or undocumented workers. Refugees came by the hundreds of thousands, fleeing the ravages of World War II and the spread of communism. Immigrants continued to come primarily under the terms of the national origins quota system, which was extended with minor revisions in 1952, and continued in effect until 1965. Agricultural workers came from Mexico, some legally as *braceros* and others illegally—the historical predecessors of today's undocumented aliens.

The distinction between refugees and immigrants became firmly established during the period following World War II, and has continued until the present time. Defined broadly, refugees flee, generally in large groups, from political or religious persecution; immigrants come voluntarily, generally on an individual basis and in an orderly fashion. A third group, illegal or undocumented aliens, come outside the law, generally for economic reasons.

In the case of immigrants, the purposes and goals of the United States as defined in Federal immigration law are dominant in deciding who comes. The admission of refugees is also subject to Federal legislation, but it has tended to be in reaction to events beyond the control of either the receiving society or the refugees themselves.

The distinction between immigrants and refugees was unheard of during the mass migrations of the 19th century; no difference was perceived between the Irish fleeing the potato famine and the German "forty-eighters" fleeing political persecution. It developed in the wake of World War II, primarily as a means of reconciling our traditional ideal of asylum with restrictions in the immigration law.

Since the 1940s, the goals and purposes of our immigration policy have diverged regarding the admission of refugees and immigrants. In the case of refugees, humanitarian concerns and foreign policy considerations have been dominant. Domestic, as opposed to foreign, policy considerations have been paramount in the admission of immigrants. The United States' desire in the 1920s to protect and preserve what was then seen as its national ethnic heritage led to the adoption of the national origins quota system. This system was repealed in the context of the civil rights movement of the 1960s, rather than on the predominantly foreign policy grounds for change advanced in the 1950s by Presidents Truman and Eisenhower.

¹ A table prepared by the Immigration and Naturalization Service entitled, *Immigration by Region and Selected Country of Last Residence, Fiscal Years 1820-1993*, appears as Table 1 at the end of this Appendix.

During the 1960s and 1970s, the flow of refugees from political turmoil in other nations continued, requiring the enactment of special legislation. The equal treatment of all nations and family reunification emerged as the primary goals of our policy for admitting immigrants. The flow of illegal or undocumented aliens, particularly from other countries in the Western Hemisphere, resulted in political pressure for more effective measures to restrict illegal immigration.

During the 1980s through 1990, Congress reviewed and revised all aspects of immigration policy in an attempt to articulate a workable approach which accommodated both our past tradition of asylum as well as the economic and political realities of the present. Legislation providing for flexibility in our response to refugees within the framework of the basic immigration law was enacted in 1980. This was followed in 1986, after lengthy and intensive debate, by legislation aimed at controlling illegal immigration. In 1990, Congress passed legislation significantly changing the regulation of legal immigration, among other things increasing the comparatively limited number of visas available for independent non-family immigration and for certain underrepresented countries. In part because of the repeal of the national origins quota system, the majority of immigrants were coming from Asia and Latin America, as opposed to Europe. Concern was expressed about the lack of accessibility for the traditional "old source" countries such as Ireland, an issue addressed by the 1990 legislation. Beyond legal immigration, the Immigration Act of 1990 represented a major revision of the Immigration and Nationality Act, which remains the basic immigration law.

C. EARLY IMMIGRATION

Technically speaking, U.S. immigration began with the Declaration of Independence in 1776 and the Treaty of Paris in 1783, which accorded the United States recognition as a nation. Official immigration statistics began to be kept in 1820. However, the settlers and pioneers who colonized North America before the founding of the United States were also immigrants. These early immigrants came from a variety of nations and for a variety of reasons to a new land which placed few constraints on their coming. They provided the people needed to explore and settle the continent, and to develop a new society.

The early colonists were primarily of European stock, representing the nations which laid claim to the new land. Colonists came from Great Britain, France, and the Netherlands to settle the Eastern seaboard of the continent. In the Southeast, France sent colonists to settle Louisiana. In the South and West, Spanish colonists settled in Florida, in the areas which are now Texas and New Mexico, and in California. Along with these settlers came involuntary immigrants—black men and women brought as slaves from the African continent. Colonists came for a variety of reasons: to serve as soldiers and civilian representatives of the colonizing power; to obtain religious and political freedom; to convert others to their religious views; to improve their economic status and pursue economic gain; to seek adventure; and involuntarily as slaves to provide labor for colonial agriculture and industry.

A brief listing of some of the colonial settlers suggests the diversity of motives which inspired the early immigrants as well as the kaleidoscope of nations from which they came. A combination of religious, political, and economic motives brought settlers from Great Britain to the Massachusetts Bay Colony, the Quaker settlement in Pennsylvania, the Catholic settlement in Baltimore, and the colony of Georgia. Spanish settlers came to California, Florida, and Mexico to search for gold, trade with and bring Christianity to the Indians, and expand the Spanish Empire. French settlers came to Louisiana and Canada to seek land and business opportunities, convert the natives, and protect French trading interests. French Huguenots fled religious persecution after the revocation of the Edict of Nantes in 1685.

German Pietist sects, including the Mennonites and Moravians, also fled persecution in search of religious freedom, many in response to the sympathetic Quaker teachings of William Penn. A later German group, the Hessians, came to fight as mercenaries with the British in the American Revolution, and 5,000 stayed to become immigrants. Dutch and Swedes came for political freedom and economic opportunity, and the Scotch-Irish came throughout the 18th century for economic, religious, and political motives.

The first black slaves were brought to the English colonies in 1619 on a Dutch ship. The term "slave" initially was applied loosely to both white and black servants, and both were treated as indentured servants. However, conditions worsened as the slave trade became more profitable. Slaves were brought to the English, French, Portuguese, Spanish, and Dutch colonies throughout the 18th century. The numbers

are not known, although they have been estimated in the millions. Slave importation was prohibited in 1808, but an illicit slave trade continued until the Civil War.

When the first census was taken in 1790, the total population was recorded at 3,227,000. English, Scots, and Scotch-Irish accounted for 75 percent; Germans made up 8 percent; other nationalities with substantial numbers included the Dutch, French, Swedish, and Spanish. The 1790 census showed a black population of approximately 750,000. By the census of 1810, the white population had increased to approximately 6 million, and the black population to approximately 1,378,000.

A new society was effectively established here by the end of the 18th century, taking its language, the basis for its law, and many of its customs from England, with major contributions from other European countries. The country's libertarian principles included a belief in the mission of America to provide asylum for the oppressed, and in the corollary right of the oppressed to seek freedom and opportunity in America. As will be seen, these ideals were remarkably appropriate to the needs of the United States and Europe during the 19th century.

At the same time, there were indications as early as the 18th century of a more negative view of immigration which was to emerge as the dominant one in the 1920s. Perhaps the best known expression of this view was Benjamin Franklin's warning in 1753 about the Germans in Pennsylvania:

... those who came hither are generally the most stupid of their own nation, and as ignorance is often attended with great credulity, when knavery would mislead it, and with suspicion when honesty would set it right; and, few of the English understand the German language, and so cannot address them either from the press or pulpit, it is almost impossible to remove any prejudices they may entertain Not being used to liberty, they know not how to make modest use of it.²

Franklin feared that the Germans would eventually outnumber the English, "and even our government will become precarious".

Similar fears, although not about the Germans, led to the adoption of the national origins quota system 168 years later. However, one of the largest mass migrations in recorded history preceded this step. During the century between the fall of Napoleon and World War I, from 30 to 35 million immigrants came to the United States.

D. 19TH CENTURY IMMIGRATION

The mass migration of the 19th century was the result of a near perfect match between the needs of a new country and overcrowded Europe. Europe at this time was undergoing drastic social change and economic reorganization, severely compounded by overpopulation. An extraordinary increase in population coincided with the breakup of the old agricultural order which had been in place since medieval times throughout much of Europe. Commonly held lands were broken up into individually owned farms, resulting in landless status for peasants from Ireland to Russia. At approximately the same time, the industrial revolution was underway, moving from Great Britain to Western Europe, and then to Southern and Eastern Europe. For Germany, Sweden, Russia, and Japan, the highest points of emigration coincided with the beginnings of industrialization and the ensuing general disruption of employment patterns. The artisans joined the peasants evicted from their land as immigrants to the United States. Population pressure and related economic problems, sometimes in the extreme form of famine, are generally cited as being the major causes of the mass migration of this long period, followed by religious persecution and the desire for political freedom.

America, on the other hand, had a boundless need for people to push back the frontier, to build the railways, to defend unstable boundaries, and to populate new States. The belief in America as a land of asylum for the oppressed was reinforced by the commitment to the philosophy of manifest destiny. Immigration was required for settlement, defense, and economic well-being.

The coincidence of European and American interest in mass migration during this period is well illustrated by two quotations, one from the European and one from the American point of view. The first is from a letter written home by a Frenchman, J. Hector St. John Crevecoeur, in 1792:

There is no wonder that this country has so many charms and presents to Europeans so many temptations to remain in it. A traveller in Europe becomes a stranger as soon as he quits his own kingdom; but it is otherwise here. We know, properly speaking, no strangers; this is every person's country; the vari-

² Quoted by Franklin D. Scott. *The People of America: Perspectives on Immigration*. Washington, American Historical Association, AHA pamphlets 241, 1972. p. 15.

ety of our soils, situations, climates, governments, and produce, hath something which must please everybody He does not find, as in Europe, a crowded society, where every place is over-stocked; he does not feel that perpetual collision of parties, that difficulty of beginning, that contention which oversets so many. There is room for everybody in America; has he any particular talent, or industry. He exerts it in order to procure a livelihood, and it succeeds.³

The second quotation is from the Republican party platform in 1864, which Abraham Lincoln participated in writing: "Foreign immigration which in the past has added so much to the wealth, resources, and increase of power to this nation—the asylum of the oppressed of all nations—should be fostered and encouraged by a liberal and just policy."⁴ The United States throughout the 19th century was in the happy position of doing well by doing good, of adding to its "wealth, resources, and increase of power" by serving as "the asylum of the oppressed of all nations."

Official, albeit imperfect, immigration statistics were recorded beginning in 1820 by the Department of State, which continued to perform this task until 1870. The immigration data collection function was subsequently transferred to the Treasury Department's Bureau of Statistics, and from there to the Bureau of Immigration, housed first in the Department of Labor and subsequently in the Department of Justice.

Data collection began in 1819 in response to a Federal law requiring ship captains arriving from abroad to submit a manifest to the customs collector showing the sex, occupation, age, and country of all passengers aboard. Initially, data was recorded only on vessels arriving at Eastern ports; Western ports were included beginning in 1850. During the Civil War, data was available only from ports under Federal control. Immigration over land borders was recorded haphazardly until around 1910.

E. 1820–1880

The generally accepted estimate of the number of immigrants entering between the end of the Revolutionary War and 1819 is 250,000. In 1820, 8,385 entries were recorded; by 1840 annual immigration had increased tenfold, to 84,066. Germany, the United Kingdom, and Ireland accounted for 70 percent of the 750,949 entries between 1820–1840. Emigration from Ireland and England was primarily in response to economic problems. In Germany, economic problems were aggravated by liberal discontent with political developments following the Napoleonic Wars.

Immigration increased almost 600 percent, to 4,311,465, during the subsequent 20-year period, 1841–1860. Ireland, Germany, and Great Britain accounted for 87.5 percent of the total. This was the period of the potato famine, which hit hardest in Ireland but affected other parts of Europe as well.

Even with high rates of out-migration, Ireland's population had almost doubled from 1800–1840, increasing from 4.5 million to over 8 million. The increasingly impoverished peasants had become almost wholly dependent on the potato for sustenance. When the entire potato crop was wiped out in 1846 and 1847, half a million people died, 3 million lived on charity, and hundreds of thousands fled to America. Just under 1.7 million came from Ireland between 1841–1860. Emigration from Ireland reduced rather than simply slowed population growth, and in the second half of the century significant amounts of money flowed back into the country in the form of remittances from America.

Germany sent almost 1.4 million immigrants to America during 1841–1860. Germany suffered a severe economic crisis during the 1840s, as well as political unrest culminating in the revolution of 1848. The "forty-eighters" joined those fleeing to America from the potato famine, high prices, and widespread unemployment. An additional 700,000 came from Great Britain.

By 1860, the population of the United States had increased to 31 million, from 7 million in 1810. More than 5 million immigrants had added to this increase. About half of them were from Great Britain and Ireland, followed by more than 1.5 million Germans and 50,000 Scandinavians.

Immigration to the United States was widely, although not universally, encouraged during the mid-19th century; pull factors were operative in addition to the push factors discussed above. Of major importance was the so-called "American letter." These were letters to relatives at home encouraging others to follow, and some-

³ Crevecoeur. Letters from an American Farmer. Reprinted in *Immigration and the American Tradition*. Moses Rischin, ed. Indianapolis, Bobbs-Merrill Co., Inc., 1976. p. 29–30.

⁴ Quoted by William S. Bernard. *American Immigration Policy*. New York, Harper and Bros., 1950. p. 6.

times including one-way steamship tickets. Another important factor was the active recruitment of passengers by steamship companies and railroad workers by the railroads.

Following the Civil War, the development of the Union Pacific and other railways required the western movement of immigrants. The migration west of immigrants was also encouraged by western States through brochures and agents sent to New York and abroad, and by reducing the residence period required to vote. The Homestead Act of 1862 made western lands available to immigrants as well as the native-born. The Contract Labor Law passed in 1864 was intended to encourage immigration by advancing money for passage. However, it was repealed in 1868, under pressure from U.S. labor groups.

Anti-immigration, or nativist, feeling was also strong during the mid-19th century. The nativist movement of this period was inspired by a combination of anti-Catholicism, fear for American labor, the linking of immigration with crime and poverty, and concern about the political impact of immigrants. The nativist Know Nothing party showed considerable strength in the 1850s, but it ebbed by 1860.

Immigration increased to 5,127,015 during the 20-year period 1861–1880, a figure approximately equal to total previous immigration since the country had gained its independence. Germany, Great Britain, and Ireland continued to account for the largest numbers. Additionally, there were significant numbers from Sweden, Norway, and China. The high level of immigration during this period reflected, in part, the growing improvements in international communication and transportation, which resulted in widespread circulation of stories about the new land, as well as a less arduous sea voyage.

In Sweden, the winter of 1867–1868 brought a monetary crisis, followed by a crop failure and local famine. These developments, in combination with precarious agricultural conditions, the displacement of artisans by industrial development, and ideological and religious differences, resulted in mass Swedish emigration in the late 1860s. A similar pattern was repeated in Norway and throughout other countries as agrarian difficulties beset Europe during the 1880s. Eventually, the pressure was eased by the growth of industrial employment in both rural areas and the towns and a slowing population growth. Immigration from the Scandinavian countries eased off in the second decade of the 20th century.

F. THE 1880S THROUGH WORLD WAR I

The last two decades of the 19th century were particularly significant for immigration. The volume of immigration continued to increase, the principal sources shifted from Northern and Western Europe to Southern and Eastern Europe, and the Federal Government assumed an increasingly active role.

Federal legislation barring the entry of convicts and prostitutes was enacted on March 3, 1875. The Act of August 3, 1882, is considered the first general immigration statute. It was enacted in response to a combination of factors, including the increasing number of immigrants; the fear that criminals, paupers, and mental and physical defectives were being systematically sent to the United States; and an 1875 Supreme Court ruling that State laws regulating immigration infringed on Congress's exclusive power over foreign commerce and were unconstitutional. This latter development led to lobbying by private welfare organizations in Eastern cities for the establishment of Federal controls.

The Immigration Act of 1882 gave the Secretary of the Treasury authority over immigration, basing this jurisdiction on a newly established head tax of 50 cents per immigrant. The law also continued the bar against undesirables, including convicts, mental defectives, and paupers. This legislation marked the beginning of an active Federal role in immigration. It was enacted primarily in response to problems associated with what the Immigration Commission was to characterize in its 1911 report as the "old" immigration, from Northern and Western Europe; the "new" immigration from Southern and Eastern Europe was just getting underway.

The year 1882 also saw the enactment of the first legislation basing eligibility—or ineligibility—for entry on national origin. This was the Chinese Exclusion Act of May 6, 1882, which remained in effect until its repeal in 1943. Contract labor laws, prohibiting the importation under contract of foreign labor, were also enacted in the 1880s, following the depression, strikes, and efforts of the Knights of Labor during mid-years of the decade. The three elements contained in this early legislation—individual qualifications, national origin, and protection of U.S. labor—formed the basis for the restrictive policy which supplanted the policy of asylum, or essentially free immigration, after World War I. Chief in importance among these was national origin.

Immigration reached a high of 5,246,613 in 1881–1890, followed by 3,687,564 in the last decade in the 19th century. Germany, the United Kingdom, and Ireland accounted for almost half of the immigration during this period, although their numbers all declined significantly in the 1890s. Immigration from these countries continued a steady and sharp decline into the first two decades of the 20th century. This was due largely to improved economic conditions, resulting from the leveling off of population growth and the increase in industrialization which absorbed increasing numbers of workers.

In contrast, immigration from Italy and Austria-Hungary increased rapidly in the 1880s and 1890s, as it did from other countries in Southern and Eastern Europe. More than 2 million entered during the first decade of the 20th century from both Italy and Austria-Hungary, and more than 1.5 million came from Russia.

The push factors behind this migration resembled those underlying the earlier mass migration from Northern and Western Europe. Economic difficulties beset Italy, Poland, and Greece following the collapse of the old agrarian order and the disruptive early stages in industrialization, aggravated by severe overpopulation. In Italy, the cholera epidemic of 1887 was an added impetus for migration. Again, America provided an alternative to poverty and sometimes starvation for landless peasants and unemployed artisans. Others fled because of religious and ethnic persecution. These included the Russian Jews, Russo-German Mennonites, and Armenians. Others left for predominantly political reasons, including Poles and Russians.

While the United States remained willing and able to absorb the mass migration from Southern and Eastern Europe during the end of the 19th and the beginning of the 20th centuries, the country's needs had changed. The closing of the frontier, officially announced in the 1890 census, coincided with the development of a booming industrial economy which required manpower just as settlement and the opening of the West had in a previous period. The "new" immigrants, as they were characterized by the Dillingham Commission, fueled the industrialization and urbanization of America. Quoting from the Commission's 1911 report:

A large proportion of the southern and eastern European immigrants of the past 25 years have entered the manufacturing and mining industries of the eastern and middle western States, mostly in the capacity of unskilled laborers. There is no basic industry in which they are not largely represented and in many cases they compose more than 50 percent of the total number of persons employed in such industries. Coincident with the advent of these millions of unskilled laborers there has been an unprecedented expansion of the industries in which they have been employed. Whether this great immigration movement was caused by the industrial development or whether the fact that a practically unlimited and available supply of cheap labor existed in Europe was taken advantage of for the purpose of expanding the industries, cannot well be demonstrated. Whatever may be the truth in this regard it is certain that southern and eastern European immigrants have almost completely monopolized unskilled labor activities in many of the most important industries.⁵

The growing ambivalence toward immigration during the early 20th century is apparent in this description. Immigrants were believed by many to adversely affect the wages and working conditions of U.S. workers. They were also associated with the city by a country which was predominantly rural in its attitudes. As early as 1890, 62 percent of the foreign-born lived in urban places, compared to 26 percent of native whites born of native parents. The urban immigrant was blamed for the real and imagined evils of the city, including crime and poverty.

Immigration in the first decade of the 20th century reached 8,795,386, the highest number in the country's history to date, followed by the second highest number, 5,735,811, in 1911–1920. More than 1 million immigrants entered the United States in 1905, 1906, 1907, 1910, 1913, and 1914. By the end of World War I, the era of mass migration was brought to a close by the enactment of increasingly restrictive legislation.

Legislation enacted during World War I, the Immigration Act of February 5, 1917, codified existing restrictions on immigration and added new ones. Enacted over President Wilson's veto, the 1917 Act established the Asiatic Barred Zone, which further restricted the entry of Asians. It also prohibited the entry of aliens over age 16 who were unable to read in any language, a measure specifically intended to curtail immigration from southeastern Europe. Literacy provisions had been passed previously in 1896, 1913, and 1915, and vetoed successively by Presidents Cleveland, Taft, and Wilson.

⁵U.S. Immigration Commission. Abstracts of Reports. S. Doc. 747, 61st Cong., 3d Sess., 1910–11. p. 37–38.

In his 1915 veto message, President Wilson charged that the literacy test marked a sharp departure from the traditional American belief in "the right of political asylum" which had heretofore characterized American immigration policy. Quoting from his message:

Hitherto we have generously kept our doors open to all who were not unfitted by reason of disease or incapacity for self support or such personal records and antecedents as were likely to make them a menace to our peace and order or to the wholesome and essential relationships of life. In this bill it is proposed to turn away from tests of character and of quality and impose tests which exclude and restrict; for the new tests here embodied are not tests of quality or of character or of personal fitness, but tests of opportunity. Those who come seeking opportunity are not to be admitted unless they have already had one of the chief of the opportunities they seek, the opportunity of education. The object of such provisions is restriction, not selection.⁶

President Wilson went on to note, "If the people of this country have made up their minds to limit the number of immigrants by arbitrary tests and so reverse the policy of all the generations of Americans that have gone before them, it is their right to do so." However, he did not believe this to be the case.

Two years later, a wartime Congress overrode a subsequent veto by President Wilson, and the literacy requirement became law. Under the combined pressure of wartime nationalism and post-war isolationism, the economics of increasing urbanization, and a concern about the large numbers of immigrants entering from southeastern Europe, the American public, as reflected by the Congress, opted to reverse the policy of providing political asylum for one of comparative restriction. Numerical limitations followed in 1921 and, in varying forms, have remained in effect ever since.

G. THE 1920S: NUMERICAL RESTRICTIONS

Until the 1920s, legal restrictions on immigration had essentially remained qualitative rather than quantitative. That is, there were no restrictions on the number of aliens who could enter, provided that they met the criteria set forth in the law. During the 1920s numerical restrictions were placed on immigration from the Eastern Hemisphere. Western Hemisphere immigration remained numerically unrestricted until 1968.

The temporary Quota Act of May 19, 1921, was followed by the permanent Immigration Act of May 26, 1924, which remained in force until 1952. Under the national origins quota formula which went into effect on July 1, 1929, the annual quota of any nationality was "a number which bears the same ratio to 150,000 as the number of inhabitants in the United States in 1920 having that national origin bears to the number of white inhabitants of the United States in 1920, with a minimum quota of 100 for each nationality."⁷ Natives of countries in the "barred zone," encompassing most Asian countries, were generally inadmissible as immigrants with certain exceptions.

The movement toward numerical limitations initially reflected a genuine fear of being engulfed by the refugees of war-ravaged Europe, together with the growing nationalism of the United States as an emerging world power and the isolationism which characterized the country following World War I. As the 1920s progressed, the arguments in favor of numerical restrictions were buttressed and shaped by popular biological theories of the period alleging the superiority of certain races. Two statements by Dr. Harry N. Laughlin, a eugenics consultant to the House Judiciary Committee on Immigration and Naturalization in the early 1920s indicate the important role these theories played in the direction taken by immigration policy immediately after World War I:

We in this country have been so imbued with the idea of democracy, or the equality of all men, that we have left out of consideration the matter of blood or natural born hereditary mental and moral differences. No man who breeds pedigreed plants and animals can afford to neglect this thing . . .

⁶ Wilson, Woodrow. *Not Tests of Quality but of Opportunity*. Reprinted in *Immigration and the American Tradition*. Moses Rischin, ed. Indianapolis, Bobbs-Merrill Co., Inc., 1976. p. 285-286.

⁷ U.S. Congress. House. Committee on the Judiciary. *Revising the Laws Relating to Immigration, Naturalization, and Nationality*. H. Rept. 1365, 82d Cong., 2d Sess. Feb. 14, 1952. Washington, GPO, 1952. p. 37.

The National Origins provisions of the immigration control law of 1924 marked the actual turning point from immigration control based on the asylum idea . . . definitely in favor of the biological basis⁸

H. THE 1930S AND 1940S: REFUGEES AND BRACEROS

The history of U.S. immigration policy from the 1930s to the enactment of the Refugee Act of 1980 was characterized by a tension resulting from the attempt to accommodate our traditional ideal of providing asylum from oppression within the framework of a comparatively restrictive immigration law. This tension resulted in part from the fact that the fortunate congruence in the 19th century between our economic needs and our humanitarian desire to offer refuge to the oppressed no longer exists. We no longer have the manpower requirements which characterized the settling of the wilderness followed by the industrialization of the nation.

Immigration in the 1930s totaled 528,431, down from 4,107,209 in the 1920s, and accompanied by substantial emigration. Restrictive immigration laws combined with the Depression to slow the immigrant flow to the lowest point since the 1830s. Without question, Hitler was a major "push" factor of the period; Germany led the sending countries, and many more would have come if they had been permitted.

In a campaign speech in October 1932, Herbert Hoover said, "With the growth of democracy in foreign countries, political persecution has largely ceased. There is no longer a necessity for the United States to provide an asylum for those persecuted because of conscience."⁹ Hitler came to power shortly thereafter, and proved him tragically wrong. The flight of refugees from Germany began in 1933 and continued for the rest of the decade, to be followed by an even greater exodus of displaced persons throughout Europe after World War II.

The United States accepted an estimated 250,000 refugees from Nazi persecution prior to our entry into the war in 1941.¹⁰ The country was undergoing the worst depression in its history, and efforts to liberalize the immigration law were unsuccessful.

U.S. motives in the admission of refugees from the 1930s until the present time have combined humanitarian concerns with foreign policy considerations. We have, in effect, traded the wilderness for the world. Our sense of our role as the leader of the Western alliance was a major factor in the passage of special legislation allowing for the admission of displaced persons and refugees in the wake of World War II.

The Displaced Persons Act of 1948 was the first refugee legislation enacted in the Nation's history. Together with its subsequent amendments, it provided for the admission of more than 400,000 displaced persons through the end of 1951, by mortgaging future immigration quotas. Poles accounted for one-third of the admissions, followed by German ethnics.¹¹

Total immigrant admissions doubled during the 1940s compared to the 1930s, going from 528,431 to 1,035,039. This was still the lowest 10-year figure since the 1830s, exclusive of the preceding decade. Of this number, 354,804 entered from the Western Hemisphere.

The total number of permanent entries from the Western Hemisphere during the 1940s and 1950s was far exceeded by the number of admissions for temporary employment from the Western Hemisphere countries, led overwhelmingly by Mexico. The Mexican bracero program lasted from 1942 until 1964, and authorized the entry of between 4 and 5 million temporary agricultural workers. Significant, although much smaller numbers also entered from the Bahamas, Jamaica, Barbados, British Honduras, Canada, and Newfoundland.

I. THE IMMIGRATION AND NATIONALITY ACT OF 1952

The Immigration and Nationality Act enacted on June 27, 1952, was a major recodification and revision of existing immigration and nationality law. It codified and carried forward, with modifications, the essential elements of both the 1917 and

⁸ Quoted by Abba Schwartz. *The Open Society*. New York, Simon and Schuster, 1968. p. 105-106.

⁹ Quoted by Robert Divine. *American Immigration Policy, 1924-1952*. New Haven, Yale University Press, 1957. p. 92.

¹⁰ *Ibid.*, p. 104.

¹¹ A table prepared by the Immigration and Naturalization Service entitled, *Refugees and Asylees Granted Lawful Permanent Resident Status by Region and Selected Country of Birth, Fiscal Years 1946-90*, appears as Table 2 at the end of this Appendix.

1924 Acts discussed above, as well as those provisions of the Internal Security Act of September 23, 1950, relating to the exclusion of Communists.

The 1952 legislation reflected the cold war atmosphere and anti-communism of the period, following World War II and at the onset of the Korean War. The law was, Robert Divine asserted, "in essence an act of conservatism rather than of intolerance."¹² The difference between the climate of opinion in the 1920s and the early 1950s is apparent in the following statement in the 1950 report of the Senate Judiciary Committee, "Without giving credence to any theory of Nordic superiority, the subcommittee believes that the adoption of the national origins quota formula was a rational and logical method of numerically restricting immigration in such a manner as to best preserve the sociological and cultural balance of the United States."¹³ In contrast to the 1920s, the case for the national origins quota system in the 1950s was not generally argued on the grounds of racial superiority, but on sociological theories of the time relating to cultural assimilation. The provisions effectively prohibiting entry from most Asian countries were also slightly relaxed by the 1952 Act.

However, the legislation was characterized by supporters and opponents alike as a restrictionist measure, and was a severe disappointment to those who had hoped for a liberalization of the immigration law. In particular, the continuation of the national origins quota system was viewed by critics of the legislation as being inappropriate to the needs of U.S. foreign policy. Foremost among these critics was President Truman, whose veto was overridden by a vote of 278 to 113 in the House, and 57 to 26 in the Senate. Quoting from his veto message:

Today, we are "protecting" ourselves as we were in 1924, against being flooded by immigrants from Eastern Europe. This is fantastic. The countries of Eastern Europe have fallen under the Communist yoke—they are silenced, fenced off by barbed wire and minefields—no one passes their borders but at the risk of his life. We do not need to be protected against immigrants from these countries—on the contrary we want to stretch out a helping hand, to save those who have managed to flee into Western Europe, to succor those who are brave enough to escape from barbarism, to welcome and restore them against the day when their countries will, as we hope, be free again These are only a few examples of the absurdity, the cruelty of carrying over into this year of 1952 the isolationist limitations of our 1924 law.

In no other realm of our national life are we so hampered and stultified by the dead hand of the past, as we are in this field of immigration.¹⁴

In addition to continuing the national origins quota system for the Eastern Hemisphere, the 1952 Act also established a four-category selection system. Fifty percent of each national quota was allocated for first preference distribution to aliens with high education or exceptional abilities, and the remaining three preference categories were divided among specified relatives of U.S. citizens and permanent resident aliens. This four-point selection system was the antecedent of our current preference system, which places higher priority on family reunification than on needed skills. However, under the 1952 law national origins remained the determining factor in immigrant admissions, and Northern and Western Europe were heavily favored. As in the past, the Western Hemisphere was not subject to numerical limitations.

Immigration during the decade 1951–1960 totaled 2,515,479, the highest since the 1920s. This was not surprising, since the two intervening decades included the depression of the 1930s and World War II. The gap between Eastern and Western Hemisphere immigration also narrowed: of the 2.5 million entries, almost a million entered from the Western Hemisphere.

Less than half of the immigrants who entered during the 1950s were admitted under the quota system. While many came under special temporary laws enacted to permit the admission of refugees and family members outside the quotas, many others entered as nonquota immigrants (e.g., from the Western Hemisphere) under the basic law. The gradual recognition that the national origins quota system was not functioning effectively as a means of regulating immigration was an important factor leading to the major policy revision which came in 1965.

¹² Divine, *American Immigration Policy*, p. 190.

¹³ U.S. Congress. Senate. Committee on the Judiciary. *The Immigration and Naturalization Systems of the United States*. S. Rept. 1515, 81st Cong., 2d Sess. Washington, GPO, 1950. p. 455.

¹⁴ U.S. Congress. House. Message from the President of the United States. H. Doc. 520, 82d Cong., 2d Sess. June 25, 1952. p. 5.

J. REFUGEE ADMISSIONS IN THE 1950S AND 1960S

Major refugee admissions occurred outside the national origins quota system during the 1950s. The Refugee Relief Act of August 7, 1953, and the August 31, 1954 amendments authorized the admission of 214,000 refugees from war-torn Europe and escapees from Communist-dominated countries. Thirty percent of the admissions during the life of the Act were Italians, followed by Germans, Yugoslavs, and Greeks.

The Refugee Relief Act originated as an Administration bill, and combined humanitarian concern for the refugees and escapees with "international political considerations." Quoting from President Eisenhower's letter which accompanied the draft legislation:

These refugees, escapees, and distressed peoples now constitute an economic and political threat of constantly growing magnitude. They look to traditional American humanitarian concern for the oppressed. International political considerations are also factors which are involved. We should take reasonable steps to help these people to the extent that we share the obligation of the free world.¹⁵

In particular, the inclusion of the category of "escapees" from Communist domination in this and subsequent refugee legislation reflected the preoccupations of this Cold War period. This concern was also a major factor in the admission of refugees from the unsuccessful Hungarian revolution of October 1956. A total of 38,000 Hungarian refugees were eventually admitted to the United States, 6,130 with Refugee Relief Act visas and the remainder under the parole provision of the Immigration and Nationality Act.

The Act of September 11, 1957, sometimes referred to as the "Refugee-Escapee Act," provided for the admission of certain aliens who were eligible under the terms of the Refugee Relief Act, as well as "refugee-escapees," defined as persons fleeing persecution in Communist countries or countries in the Middle East. This was the basis for the definition of "refugee" incorporated in the Immigration and Nationality Act from 1965 until 1980. A total of 29,000 entered under the temporary 1957 refugee provisions, led by Hungarians, Koreans, Yugoslavs, and Chinese. Many entered with visas authorized by, but unused under, the expired Refugee Relief Act. In addition, the 1957 legislation repealed the quota deductions required by the Displaced Persons Act.

During the 1960s, refugees from persecution in communist dominated countries in the Eastern Hemisphere and from countries in the Middle East continued to be admitted, first under the Fair Share Law, enacted July 14, 1960, and subsequently under the Immigration and Nationality Act. Approximately 19,700 refugees entered under the 1960 legislation. Its primary purpose was to enable the United States to participate in an international effort to close the refugee camps which had been in operation in Europe since the end of World War II. U.S. participation was limited to one-fourth of the total number resettled.

Cuban refugees began entering the United States with the fall of the Batista government in 1959, and continued throughout the 1960s and, in smaller numbers, the 1970s. Approximately 700,000 Cuban refugees had entered the United States prior to new influx which began in April 1980. In the past, the United States has accepted the Cubans as refugees from communism through a variety of legal means.

K. THE IMMIGRATION AND NATIONALITY ACT AMENDMENTS OF 1965 AND THEIR AFTERMATH

The 1965 amendments to the 1952 Act repealed the national origins quota system and, according to one authority, "represented the most far-reaching revision of immigration policy in the United States since the First Quota Act of 1921."¹⁶ In place of nationality and ethnic considerations, the Immigration and Nationality Act amendments of October 3, 1965 (P.L. 89-236; 79 Stat. 911) substituted a system based primarily on reunification of families and needed skills.

¹⁵ U.S. Congress. Senate. Final Report of the Administrator of the Refugee Relief Act of 1953, As Amended. Refugee Relief Act of 1953, As Amended. Committee Print, 85th Cong., 1st Sess. Nov. 15, 1957. Washington, GPO, 1958. p. 1.

¹⁶ Harper, Elizabeth J. Immigration Laws of the United States. 3d ed. Indianapolis, Bobbs-Merrill Co., Inc., 1975. p. 38.

The circumstances which led to this major shift in policy in 1965 were a complex combination of changing public perceptions and values, politics, and legislative compromise. Public support for the repeal of the national origins quota system reflected changes in public attitudes toward race and national origins. It can be argued that the 1965 immigration legislation was as much a product of the mid-1960s and the heavily Democratic 89th Congress which also produced major civil rights legislation, as the 1952 Act had been a product of the Cold War period of the early 1950s.

The 1965 amendments replaced the national origins quota system as the primary control of Eastern Hemisphere immigration with an annual ceiling on Eastern Hemisphere immigration of 170,000 and a 20,000 per country limit. Within these restrictions, immigrant visas were distributed according to a seven-category preference system placing priority, in order, on family reunification, attracting needed skills, and refugees. The 1965 law also provided that effective July 1, 1968, Western Hemisphere immigration would be limited by an annual ceiling of 120,000, without per-country limits or a preference system.

The Immigration and Nationality Act Amendments of 1976 (P.L. 94–571; 90 Stat. 2703) extended the 20,000 per-country limit and a slightly modified version of the seven-category preference system equally to the Western Hemisphere. The preference system and the per-country limits were applied to the two hemispheres under the separate ceilings of 170,000 for the Eastern Hemisphere, and 120,000 for the Western Hemisphere. Legislation enacted in 1978 (P.L. 95–412; 92 Stat. 907) combined the separate ceilings into a single worldwide ceiling of 290,000 with a single preference system. The Refugee Act of 1980 (P.L. 96–212; 94 Stat. 102) eliminated refugees as a category of the preference system, and set the worldwide ceiling of 270,000, exclusive of refugees.

The major source of immigration to the United States has shifted since 1965 from Europe to Latin America and Asia, reversing the trend of nearly two centuries. According to the *1993 Statistical Yearbook of the Immigration and Naturalization Service* (p. 20), Europe accounted for 50 percent of U.S. immigration during the decade fiscal years 1955–64, followed by North America (defined by the Immigration and Naturalization Service to include Mexico, the Caribbean, and Central America) at 36 percent, and Asia at 8 percent. In fiscal year 1993, Asia was highest at 40 percent, followed by North America at 33 percent, and Europe at 18 percent. In order, the countries exceeding 20,000 immigrants in fiscal year 1993 were Mexico, Mainland China, the Philippines, Vietnam, the Soviet Union, the Dominican Republic, India, Poland, and El Salvador.

These figures reflect a shift in both accessibility and demand by the sending countries. For example, Asian immigration was severely limited prior to the 1965 amendments, and has subsequently been augmented by the large number of Indochinese refugees adjusting to immigrant status outside the numerical limits. On the other hand, Irish immigration fell from 6,307 in fiscal year 1964 to 1,839 in fiscal year 1986, with 734 entering under the preference system and the majority entering as the immediate relatives of U.S. citizens. Ireland had been heavily favored under the national origins quota system. It has been commonly assumed that many Irish would like to immigrate to the United States, but lacked the necessary family relationships or skills to qualify under the preference system prior to the 1990 amendments.

L. THE 1970S THROUGH 1990S: IMMIGRATION ISSUES, REVIEW, AND REVISION

The patterns of immigration and the policy considerations relating to it in the 1970s resembled in some respects those of the 1950s after the enactment of the Immigration and Nationality Act. In both decades, the entry of aliens outside the qualitative and quantitative restrictions of the basic law—both illegally as undocumented aliens, and legally as refugees—was increasingly the dominant pattern in immigration and the basis for the major issues confronting the Congress. Legislative response to the issue of refugees in 1980 and undocumented aliens in 1986 was followed in 1987 by a shift in congressional attention to legal immigration.

The 1981 report of the Select Commission on Immigration and Refugee Policy has contributed to the recent and ongoing congressional review of immigration issues. The 16-member Select Commission was created by legislation enacted in 1978 (P.L. 95–412; 92 Stat. 907) to conduct a study and evaluation of immigration and refugee laws, policies, and procedures. Its basic conclusion was that controlled immigration had been and continued to be in the national interest, and this underlay many of its recommendations. The Commission's recommendations were summed up as follows by Chairman Theodore Hesburgh in his introduction: We recommend closing

the back door to undocumented/illegal migration, opening the front door a little more to accommodate legal migration in the interests of this country, defining our immigration goals clearly and providing a structure to implement them effectively, and setting forth procedures which will lead to fair and efficient adjudication and administration of U.S. immigration laws.¹⁷

1. REFUGEES AND THE REFUGEE ACT OF 1980

During the 5-year period, 1975-1980, refugees and refugee-related issues dominated congressional concern with immigration more than they had since the years following World War II. Beginning with the fall of Vietnam and Cambodia in April 1975, this period saw the admission of more than 400,000 Indochinese refugees, the enactment of major amendments to the Immigration and Nationality Act in the form of the Refugee Act of 1980, and the exodus from Mariel Harbor, Cuba to southern Florida.

The 1980 refugee legislation was enacted in part in response to Congress's increasing frustration with the difficulty of dealing with the ongoing large-scale Indochinese refugee flow under the existing ad hoc refugee admission and resettlement mechanisms. By the end of the 1970s, a consensus had been reached that a more coherent and equitable approach to refugee admission and resettlement was needed. The result was the amendments to the Immigration and Nationality Act contained in the Refugee Act of 1980, enacted on March 17, 1980 (P.L. 96-212; 94 Stat. 102).

The Refugee Act repealed the ideological and geographic limitations which had previously favored refugees fleeing communism or from countries in the Middle East and redefined "refugee" to conform with the definition used in the United Nations Protocol and Convention Relating to the Status of Refugees. The term "refugee" is now defined by the Immigration and Nationality Act as a person who is unwilling or unable to return to his country of nationality or habitual residence because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The 1980 amendments made provision for both a regular flow and the emergency admission of refugees, following legislatively prescribed consultation with the Congress. In addition, the law authorized Federal assistance for the resettlement of refugees.

Shortly after the enactment of the Refugee Act of 1980, large numbers of Cubans entered the United States through southern Florida, totaling an estimated 125,000, along with continuing smaller numbers of Haitians. The Carter Administration was unwilling to classify either group as refugees, and no action was taken on the special legislation sought by the Administration. Beginning in 1984, the Reagan Administration adjusted the majority of the Cubans to lawful permanent resident status under P.L. 89-732, 1966 legislation enacted in response to the Cuban refugee situation in the 1960s. However, the status of the Cuban/Haitian entrants was not resolved finally until enactment of the Immigration Reform and Control Act of 1986, which included special legalization provisions.

2. ILLEGAL IMMIGRATION AND THE IMMIGRATION REFORM AND CONTROL ACT OF 1986

Immigration legislation focusing on illegal immigration was considered and passed by the 99th Congress, and enacted as P.L. 99-603 (Act of November 6, 1986; 100 Stat. 3359), the Immigration Reform and Control Act of 1986 (IRCA). P.L. 99-603 consists primarily of amendments to the basic immigration law, the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1101 et seq.).

Reform of the law relating to the control of illegal immigration had been under consideration for 15 years, since the early 1970s. The 1986 legislation marked the culmination of bipartisan efforts both by Congress and the executive branch under four Presidents. As an indication of the growing magnitude of the problem, the annual apprehension of undocumented aliens by the Department of Justice's Immigration and Naturalization Service increased from 505,949 in 1972, the first year legislation aimed at controlling illegal immigration received House action, to 1,767,400 in 1986. Immigration and Naturalization Service apprehensions dropped to 1,190,488 in fiscal year 1987 and to 954,243 in fiscal year 1989 but rose again to 1,327,259 in fiscal year 1993.

The prospect of employment at U.S. wages generally has been agreed to be the economic magnet that draws aliens here illegally. The principal legislative remedy

¹⁷ Ibid., p. 3.

proposed in the past and included in the new law is employer sanctions, or penalties for employers who knowingly hire aliens unauthorized to work in the United States. The other major provisions of the new law directly relate to employer sanctions. First, in an attempt to deal humanely with aliens who established roots here before the change in policy represented by the new Act, a legalization program was established that provides legal status for otherwise eligible aliens who had been here illegally since prior to 1982. Second, the legislation sought to respond to the apparent heavy dependence of seasonal agriculture on illegal workers by creating a 7-year special agricultural worker program, and by streamlining the previously existing "H-2" temporary worker program to expedite availability of alien workers and to provide statutory protections for U.S. and alien labor.

3. LEGAL IMMIGRATION AND THE IMMIGRATION ACT OF 1990

Following the enactment in 1986 of major legislation relating to illegal immigration, congressional legislative attention shifted to legal immigration, including the numerical limits on permanent immigration. This was an issue for a number of reasons. The numerical limits and preference system regulating the admission of legal immigrants originated in 1965, with some subsequent amendments. Since that time, and particularly in recent years, concern arose over the greater number of immigrants admitted on the basis of family reunification compared to the number of "independent" non-family immigrants, and over the limited number of visas available under the preference system to certain countries. There was also concern about the backlogs under the existing preference system and, by some, about the admission of immediate relatives of U.S. citizens outside the numerical limits. Major legislation addressing these concerns passed the Senate and was introduced in the House in the 100th Congress (1987-1988). However, only temporary legislation addressing limited concerns passed both, leaving further consideration of a full-scale revision of legal immigration to the 101st Congress.

Major omnibus immigration legislation, the Immigration Act of 1990, was signed into law as P.L. 101-649 by President Bush on November 29, 1990. The Act represented a major revision of the Immigration and Nationality Act, which remained the basic immigration law. A primary focus of P.L. 101-649 was the numerical limits and preference system regulating permanent legal immigration. Beyond legal immigration, the eight-title Act dealt with many other aspects of immigration law, ranging from nonimmigrants to criminal aliens to naturalization.

Major changes relating to legal immigration included an increase in total immigration under an overall flexible cap, an increase in annual employment-based immigration from 54,000 to 140,000, and a permanent provision for the admission of "diversity immigrants" from underrepresented countries. P.L. 101-649 provided for a permanent annual level of at least 675,000 immigrants beginning in fiscal year 1995, preceded by an annual level of approximately 700,000 during fiscal years 1992 through 1994. Refugees were the only major group of aliens not included. The Act established a three-track preference system for family-sponsored, employment-based, and diversity immigrants. Additionally, the Act significantly amended the work-related nonimmigrant categories for temporary admission.

P.L. 101-649 addressed a series of other issues pending before the Congress. It provided undocumented Salvadorans with temporary protected status for a limited period of time, and amended the Immigration and Nationality Act to authorize the Attorney General to grant temporary protected status to nationals of designated countries subject to armed conflict or natural disasters. It authorized a temporary stay of deportation and work authorization for legalized aliens' eligible immediate family members, and made 55,000 additional numbers available for them annually during fiscal years 1992-1994. In response to criticism of employer sanctions, it expanded the antidiscrimination provisions of the Immigration Reform and Control Act, and increased the penalties for unlawful discrimination. As part of a revision of all the grounds for exclusion and deportation, it significantly rewrote the political and ideological grounds which had been controversial since their enactment in 1952.

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1. TABLE 1.—IMMIGRATION BY REGION AND SELECTED COUNTRY OF LAST RESIDENCE; FISCAL YEARS 1820–1993

Region and country of last residence ¹	1820	1821–30	1831–40	1841–50	1851–60
All countries	8,385	143,439	599,125	1,713,251	2,598,214
Europe	7,690	98,797	495,681	1,597,442	2,452,577
Austria-Hungary	(2)	(2)	(2)	(2)	(2)
Austria	(2)	(2)	(2)	(2)	(2)
Hungary	(2)	(2)	(2)	(2)	(2)
Belgium	1	27	22	5,074	4,738
Czechoslovakia	(4)	(4)	(4)	(4)	(4)
Denmark	20	169	1,063	539	3,749
France	371	8,497	45,575	77,262	76,358
Germany	968	6,761	152,454	434,626	951,667
Greece	—	20	49	16	31
Ireland ⁵	3,614	50,724	207,381	780,719	914,119
Italy	30	409	2,253	1,870	9,231
Netherlands	49	1,078	1,412	8,251	10,789
Norway-Sweden	3	91	1,201	13,903	20,931
Norway	(6)	(6)	(6)	(6)	(6)
Sweden	(6)	(6)	(6)	(6)	(6)
Poland	5	16	369	105	1,164
Portugal	35	145	829	550	1,055
Romania	(7)	(7)	(7)	(7)	(7)
Soviet Union	14	75	277	551	457
Spain	139	2,477	2,125	2,209	9,298
Switzerland	31	3,226	4,821	4,644	25,011
United Kingdom ^{5,8}	2,410	25,079	75,810	267,044	423,974
Yugoslavia	(9)	(9)	(9)	(9)	(9)
Other Europe	—	3	40	79	5
Asia	6	30	55	141	41,538
China ¹⁰	1	2	8	35	41,397
Hong Kong	(11)	(11)	(11)	(11)	(11)
India	1	8	39	36	43
Iran	(12)	(12)	(12)	(12)	(12)
Israel	(13)	(13)	(13)	(13)	(13)
Japan	(14)	(14)	(14)	(14)	(14)
Korea	(15)	(15)	(15)	(15)	(15)
Philippines	(16)	(16)	(16)	(16)	(16)
Turkey	1	20	7	59	83
Vietnam	(11)	(11)	(11)	(11)	(11)
Other Asia	3	—	1	11	15
America	387	11,564	33,424	62,469	74,720
Canada and Newfoundland ^{17,18}	209	2,277	13,624	41,723	59,309
Mexico ¹⁸	1	4,817	6,599	3,271	3,078
Caribbean	164	3,834	12,301	13,528	10,660
Cuba	(12)	(12)	(12)	(12)	(12)
Dominican Republic	(20)	(20)	(20)	(20)	(20)
Haiti	(20)	(20)	(20)	(20)	(20)
Jamaica	(21)	(21)	(21)	(21)	(21)
Other Caribbean	164	3,834	12,301	13,528	10,660
Central America	2	105	44	368	449
El Salvador	(20)	(20)	(20)	(20)	(20)
Other Central America	2	105	44	368	449
South America	11	531	856	3,579	1,224
Argentina	(20)	(20)	(20)	(20)	(20)
Colombia	(20)	(20)	(20)	(20)	(20)
Ecuador	(20)	(20)	(20)	(20)	(20)
Other South America	11	531	856	3,579	1,224
Other America	(22)	(22)	(22)	(22)	(22)
Africa	1	16	54	55	210
Oceania	1	2	9	29	158
Not specified ²²	300	33,030	69,902	53,115	29,011

See footnotes at end of table.

1. TABLE 1.—IMMIGRATION BY REGION AND SELECTED COUNTRY OF LAST RESIDENCE; FISCAL YEARS 1820–1993—CONTINUED

Region and country of last residence ¹	1861–70	1871–80	1881–90	1891–1900	1901–10
All countries	2,314,824	2,812,191	5,246,613	3,687,564	8,795,386
Europe	2,065,141	2,271,925	4,735,484	3,555,352	²³ 8,056,040
Austria-Hungary	7,800	72,969	353,719	592,707	³ 2,145,266
Austria	³ 7,124	63,009	226,038	³ 234,081	³ 668,209
Hungary	³ 484	9,960	127,681	³ 181,288	³ 808,511
Belgium	6,734	7,221	20,177	18,167	41,635
Czechoslovakia	(⁴)	(⁴)	(⁴)	(⁴)	(⁴)
Denmark	17,094	31,771	88,132	50,231	65,285
France	35,986	72,206	50,464	30,770	73,379
Germany	787,468	718,182	1,452,970	²³ 505,152	²³ 341,498
Greece	72	210	2,308	15,979	167,519
Ireland ⁵	435,778	436,871	655,482	388,416	339,065
Italy	11,725	55,759	307,309	651,893	2,045,877
Netherlands	9,102	16,541	53,701	26,758	48,262
Norway-Sweden	109,298	211,245	568,362	321,281	440,039
Norway	(⁶)	95,323	176,586	95,015	190,505
Sweden	(⁶)	115,922	391,776	226,266	249,534
Poland	2,027	12,970	51,806	²³ 96,720	(²³)
Portugal	2,658	14,082	16,978	27,508	69,149
Romania	(⁷)	⁷ 11	6,348	12,750	53,008
Soviet Union	2,512	39,284	213,282	²³ 505,290	²³ 1,597,306
Spain	6,697	5,266	4,419	8,731	27,935
Switzerland	23,286	28,293	81,988	31,179	34,922
United Kingdom ^{5 8}	606,896	548,043	807,357	271,538	525,950
Yugoslavia	(⁹)	(⁹)	(⁹)	(⁹)	(⁹)
Other Europe	8	1,001	682	282	39,945
Asia	64,759	124,160	69,942	74,862	323,543
China ¹⁰	64,301	123,201	61,711	14,799	20,605
Hong Kong	(¹¹)	(¹¹)	(¹¹)	(¹¹)	(¹¹)
India	69	163	269	68	4,713
Iran	(¹²)	(¹²)	(¹²)	(¹²)	(¹²)
Israel	(¹³)	(¹³)	(¹³)	(¹³)	(¹³)
Japan	186	149	2,270	25,942	129,797
Korea	(¹⁵)	(¹⁵)	(¹⁵)	(¹⁵)	(¹⁵)
Philippines	(¹⁶)	(¹⁶)	(¹⁶)	(¹⁶)	(¹⁶)
Turkey	131	404	3,782	30,425	157,369
Vietnam	(¹¹)	(¹¹)	(¹¹)	(¹¹)	(¹¹)
Other Asia	72	243	1,910	3,628	11,059
America	166,607	404,044	426,967	38,972	361,888
Canada and Newfoundland ^{17 19}	153,878	383,640	393,304	3,311	179,226
Mexico ¹⁸	2,191	5,162	¹⁹ 1,913	¹⁹ 971	49,642
Caribbean	9,046	13,957	29,042	33,066	107,548
Cuba	(¹²)	(¹²)	(¹²)	(¹²)	(¹²)
Dominican Republic	(²⁰)	(²⁰)	(²⁰)	(²⁰)	(²⁰)
Haiti	(²⁰)	(²⁰)	(²⁰)	(²⁰)	(²⁰)
Jamaica	(²¹)	(²¹)	(²¹)	(²¹)	(²¹)
Other Caribbean	9,046	13,957	29,042	33,066	107,548
Central America	95	157	404	549	8,192
El Salvador	(²⁰)	(²⁰)	(²⁰)	(²⁰)	(²⁰)
Other Central America	95	157	404	549	8,192
South America	1,397	1,128	2,304	1,075	17,280
Argentina	(²⁰)	(²⁰)	(²⁰)	(²⁰)	(²⁰)
Colombia	(²⁰)	(²⁰)	(²⁰)	(²⁰)	(²⁰)
Ecuador	(²⁰)	(²⁰)	(²⁰)	(²⁰)	(²⁰)
Other South America	1,397	1,128	2,304	1,075	17,280
Other America	(²²)	(²²)	(²²)	(²²)	(²²)
Africa	312	358	857	350	7,368
Oceania	214	10,914	12,574	3,965	13,024
Not specified ¹⁷	17,791	790	789	14,063	²⁵ 33,523

See footnotes at end of table.

1. TABLE 1.—IMMIGRATION BY REGION AND SELECTED COUNTRY OF LAST RESIDENCE; FISCAL YEARS 1820-1993—CONTINUED

Region and country of last residence ¹	1911-20	1921-30	1931-40	1941-50	1951-60
All countries	5,735,811	4,107,209	528,431	1,035,039	2,515,479
Europe	4,321,887	2,463,194	347,566	621,147	1,325,727
Austria-Hungary	²³ 896,342	63,548	11,424	28,329	103,743
Austria	453,649	32,868	²⁴ 3,563	²⁴ 24,860	67,106
Hungary	442,693	30,680	7,861	3,469	36,637
Belgium	33,746	15,846	4,817	12,189	18,575
Czechoslovakia	⁴ 3,426	102,194	14,393	8,347	918
Denmark	41,983	32,430	2,559	5,393	10,984
France	61,897	49,610	12,623	38,809	51,121
Germany	²³ 143,945	412,202	²⁴ 114,058	²⁴ 226,578	477,765
Greece	184,201	51,084	9,119	8,973	47,608
Ireland ⁶	146,181	211,234	10,973	19,789	48,362
Italy	1,109,524	455,315	68,028	57,661	185,491
Netherlands	43,718	26,948	7,150	14,860	52,277
Norway-Sweden	161,469	165,780	8,700	20,765	44,632
Norway	66,395	68,531	4,740	10,100	22,935
Sweden	95,074	97,249	3,960	10,665	21,697
Poland	²³ 4,813	227,734	17,026	7,571	9,985
Portugal	89,732	29,994	3,329	7,423	19,588
Romania	13,311	67,646	3,871	1,076	1,039
Soviet Union	²³ 921,201	61,742	1,370	571	671
Spain	68,611	28,958	3,258	2,898	7,894
Switzerland	23,091	29,676	5,512	10,547	17,675
United Kingdom ^{5 8}	341,408	339,570	31,572	139,306	202,824
Yugoslavia	⁹ 1,888	49,064	5,835	1,576	8,225
Other Europe	31,400	42,619	11,949	8,486	16,350
Asia	247,236	112,059	16,595	37,028	153,249
China ¹⁰	21,278	29,907	4,928	16,709	9,657
Hong Kong	(¹¹)	(¹¹)	(¹¹)	(¹¹)	¹¹ 15,541
India	2,082	1,886	496	1,761	1,973
Iran	(¹²)	¹² 241	195	1,380	3,388
Israel	(¹³)	(¹³)	(¹³)	¹³ 476	25,476
Japan	83,837	33,462	1,948	1,555	46,250
Korea	(¹⁵)	(¹⁵)	(¹⁵)	¹⁵ 107	6,231
Philippines	(¹⁶)	(¹⁶)	¹⁶ 528	4,691	19,307
Turkey	134,066	33,824	1,065	798	3,519
Vietnam	(¹¹)	(¹¹)	(¹¹)	(¹¹)	¹¹ 335
Other Asia	5,973	12,739	7,435	9,551	21,572
America	1,143,671	1,516,716	160,037	354,804	996,944
Canada and Newfoundland ^{17 18}	742,185	924,515	108,527	171,718	377,952
Mexico ¹⁸	219,004	459,287	22,319	60,589	299,811
Caribbean	123,424	74,899	15,502	49,725	123,091
Cuba	(¹²)	¹² 15,901	9,571	26,313	78,948
Dominican Republic	(²⁰)	(²⁰)	²⁰ 1,150	5,627	9,897
Haiti	(²⁰)	(²⁰)	²⁰ 191	911	4,442
Jamaica	(²¹)	(²¹)	(²¹)	(²¹)	²¹ 8,869
Other Caribbean	123,424	58,998	4,590	16,874	²¹ 20,935
Central America	17,159	15,769	5,861	21,665	44,751
El Salvador	(²⁰)	(²⁰)	²⁰ 673	5,132	5,895
Other Central America	17,159	15,769	5,188	16,533	38,856
South America	41,899	42,215	7,803	21,831	91,628
Argentina	(²⁰)	(²⁰)	²⁰ 1,349	3,338	19,486
Columbia	(²⁰)	(²⁰)	²⁰ 1,223	3,858	18,048
Ecuador	(²⁰)	(²⁰)	²⁰ 337	2,417	9,841
Other South America	41,899	42,215	4,894	12,218	44,253
Other America	(²²)	²² 31	25	29,276	59,711
Africa	8,443	6,286	1,750	7,367	14,092
Oceania	13,427	8,726	2,483	14,551	12,976
Not specified ²²	1,147	228	—	142	12,491

See footnotes at end of table.

1. TABLE 1.—IMMIGRATION BY REGION AND SELECTED COUNTRY OF LAST RESIDENCE; FISCAL YEARS 1982-1993—CONTINUED

Region and country of last residence ¹	1961-70	1971-80	1981-90	1988	1989
All countries	3,321,677	4,493,314	7,338,062	643,025	1,090,924
Europe	1,123,492	800,368	761,550	71,854	94,338
Austria-Hungary	26,022	16,028	24,685	3,200	3,586
Austria	20,621	9,478	18,340	2,493	2,845
Hungary	5,401	6,550	6,545	707	741
Belgium	9,192	5,329	7,066	706	705
Czechoslovakia	3,273	6,023	7,227	744	526
Denmark	9,201	4,439	5,370	561	617
France	45,237	25,069	32,353	3,637	4,101
Germany	190,796	74,414	91,961	9,748	10,419
Greece	85,969	92,369	38,377	4,690	4,588
Ireland ⁵	32,966	11,490	31,969	5,121	6,983
Italy	214,111	129,368	67,254	5,332	11,089
Netherlands	30,606	10,492	12,238	1,152	1,253
Norway-Sweden	32,600	10,472	15,182	1,669	1,809
Norway	15,484	3,941	4,164	446	556
Sweden	17,116	6,531	11,018	1,223	1,253
Poland	53,539	37,234	83,252	7,298	13,279
Portugal	76,065	101,710	40,431	3,290	3,861
Romania	2,531	12,393	30,857	2,915	3,535
Soviet Union	2,465	38,961	57,677	1,408	4,570
Spain	44,659	39,141	20,433	1,972	2,179
Switzerland	18,453	8,235	8,849	920	1,072
United Kingdom ^{5,8}	213,822	137,374	159,173	14,667	16,961
Yugoslavia	20,381	30,540	18,762	2,039	2,464
Other Europe	11,604	9,287	8,234	785	741
Asia	427,642	1,588,178	2,738,157	254,745	296,420
China ¹⁰	34,764	124,326	346,747	34,300	39,284
Hong Kong	75,007	113,467	98,215	11,817	15,257
India	27,189	164,134	250,786	25,312	28,599
Iran	10,339	45,136	116,172	9,846	13,027
Israel	29,602	37,713	44,273	4,444	5,494
Japan	39,988	49,775	47,085	5,085	5,454
Korea	34,526	267,638	333,746	34,151	33,016
Philippines	98,376	354,987	548,764	61,017	66,119
Turkey	10,142	13,399	23,233	2,200	2,538
Vietnam	4,340	172,820	280,782	12,856	13,174
Other Asia	63,369	244,783	648,354	53,717	74,458
America	1,716,374	1,982,735	3,615,225	294,906	672,639
Canada and Newfoundland ^{17,18}	413,310	169,939	156,938	15,821	18,294
Mexico ¹⁸	453,937	640,294	1,655,843	95,170	405,660
Caribbean	470,213	741,126	872,051	110,949	87,597
Cuba	208,536	264,863	144,578	16,610	9,523
Dominican Republic	93,292	148,135	252,035	27,195	26,744
Haiti	34,499	56,335	138,379	34,858	13,341
Jamaica	74,906	137,577	208,148	20,474	23,572
Other Caribbean	58,980	134,216	128,911	11,812	14,417
Central America	101,330	134,640	468,088	31,311	101,273
El Salvador	14,992	34,436	213,539	12,043	57,628
Other Central America	86,338	100,204	254,549	19,268	43,645
South America	257,954	295,741	461,847	41,646	59,812
Argentina	49,721	29,897	27,237	2,556	3,766
Colombia	72,028	77,347	122,849	10,153	14,918
Ecuador	36,780	50,077	56,315	4,736	7,587
Other South America	99,425	138,420	255,356	24,201	33,541
Other America	19,630	995	458	9	3
Africa	28,954	80,779	176,893	17,124	22,485
Oceania	25,122	41,242	45,205	4,324	4,956
Not specified ²²	93	12	1,032	72	86

See footnotes at end of table.

1. TABLE 1.—IMMIGRATION BY REGION AND SELECTED COUNTRY OF LAST RESIDENCE; FISCAL YEARS 1820–1993—CONTINUED

Region and country of last residence ¹	1990	1991	1992	1993	1820–1993
All countries	1,536,483	1,827,167	973,977	904,292	60,699,450
Europe	124,026	146,671	153,260	165,711	37,566,702
Austria-Hungary	4,733	4,455	3,934	2,914	4,354,085
Austria	3,774	3,511	2,895	1,880	³ 1,837,232
Hungary	959	944	1,039	1,034	³ 1,670,777
Belgium	827	701	957	776	212,990
Czechoslovakia	578	625	874	792	148,092
Denmark	674	629	769	762	372,572
France	4,265	3,978	4,492	3,959	800,016
Germany	12,152	10,887	12,875	9,965	7,117,192
Greece	3,887	2,929	2,168	2,460	711,461
Ireland ⁶	9,740	4,608	12,035	13,396	4,755,172
Italy	16,246	30,316	11,962	3,899	5,419,285
Netherlands	1,515	1,303	1,687	1,542	378,764
Norway-Sweden	1,930	1,796	2,296	2,253	2,152,299
Norway	522	554	790	713	⁶ 803,281
Sweden	1,378	1,242	1,506	1,540	⁶ 1,288,763
Poland	18,364	17,106	24,491	27,288	675,221
Portugal	4,066	4,576	2,774	2,075	510,686
Romania	3,496	6,786	4,907	4,517	221,051
Soviet Union	14,779	31,557	37,069	59,949	3,572,281
Spain	2,744	2,663	2,041	1,791	291,643
Switzerland	1,288	1,003	1,303	1,263	363,008
United Kingdom ^{5 8}	19,054	16,768	21,924	20,422	5,178,264
Yugoslavia	2,778	2,802	2,741	2,781	144,595
Other Europe	901	1,183	1,961	2,907	188,025
Asia	321,879	342,157	244,802	345,425	7,051,564
China ¹⁰	40,639	23,995	29,554	57,775	1,025,700
Hong Kong	14,367	15,895	16,802	14,026	¹¹ 348,953
India	28,809	42,707	34,841	38,653	571,917
Iran	14,905	9,927	6,995	8,908	¹² 202,681
Israel	5,906	5,116	5,938	5,216	¹³ 153,810
Japan	6,431	5,600	11,735	7,673	¹⁴ 487,252
Korea	30,964	25,430	18,734	17,320	¹⁵ 703,732
Philippines	71,279	68,750	63,478	63,406	¹⁶ 1,222,287
Turkey	3,205	3,466	3,203	3,487	422,483
Vietnam	14,755	14,847	31,172	31,894	¹¹ 536,190
Other Asia	90,619	126,424	122,350	97,067	1,376,559
America	1,050,527	1,297,580	445,194	361,476	15,171,798
Canada and Newfoundland ^{17 19}	24,642	19,931	21,541	23,898	4,360,955
Mexico ¹⁸	680,186	947,923	214,128	126,642	5,177,422
Caribbean	112,635	138,591	95,945	98,185	3,035,898
Cuba	9,436	9,474	10,890	12,976	¹² 782,050
Dominican Republic	42,136	41,422	41,948	45,464	²⁰ 638,970
Haiti	19,869	47,046	10,756	9,899	²⁰ 302,458
Jamaica	23,667	22,977	18,280	16,761	²¹ 487,518
Other Caribbean	17,527	17,672	14,071	13,085	824,902
Central America	146,243	110,820	57,849	58,666	1,046,963
El Salvador	79,601	46,923	26,077	26,794	²⁰ 374,461
Other Central America	66,642	63,897	31,772	31,872	672,502
South America	86,821	80,308	55,725	54,077	1,440,413
Argentina	5,953	4,231	4,083	2,972	²⁰ 142,404
Colombia	23,723	19,272	12,885	12,597	²⁰ 340,107
Ecuador	12,474	9,962	7,322	7,400	²⁰ 180,451
Other South America	44,611	46,843	31,435	31,108	777,451
Other America	-	7	6	8	110,147
Africa	32,797	33,542	24,707	25,532	417,926
Oceania	6,804	7,061	5,994	6,144	223,821
Not specified	450	156	20	4	267,639

See footnotes at end of table.

FOOTNOTES TO TABLE 1:

¹Data for years prior to 1906 relate to country whence alien came; data from 1906-79 and 1984-93 are for country of last permanent residence; and data for 1980-83 refer to country of birth. Because of changes in boundaries, changes in lists of countries, and lack of data for specified countries for various periods, data for certain countries, especially for the total period 1820-1993, are not comparable throughout. Data for specified countries are included with countries to which they belonged prior to World War I.

²Data for Austria and Hungary not reported until 1861.

³Data for Austria and Hungary not reported separately for all years during the period.

⁴No data available for Czechoslovakia until 1920.

⁵Prior to 1926, data for Northern Ireland included in Ireland.

⁶Data for Norway and Sweden not reported separately until 1871.

⁷No data available for Romania until 1880.

⁸Since 1925, data for United Kingdom refer to England, Scotland, Wales, and Northern Ireland.

⁹In 1920, a separate enumeration was made for the Kingdom of Serbs, Croats, and Slovenes. Since 1922, the Serb, Croat, and Slovene Kingdom recorded as Yugoslavia.

¹⁰Beginning in 1957, China includes Taiwan.

¹¹Data not reported separately until 1952.

¹²Data not reported separately until 1925.

¹³Data not reported separately until 1949.

¹⁴No data available for Japan until 1861.

¹⁵Data not reported separately until 1948.

¹⁶Prior to 1934, Philippines recorded as insular travel.

¹⁷Prior to 1920, Canada and Newfoundland recorded as British North America. From 1820-98, figures include all British North America possessions.

¹⁸Land arrivals not completely enumerated until 1908.

¹⁹No data available for Mexico from 1886-93.

²⁰Data not recorded separately until 1932.

²¹Data for Jamaica not collected until 1953. In prior years, consolidated under British West Indies, which is included in "Other Caribbean."

²²Included in countries "Not specified" until 1925.

²³From 1899-1919, data for Poland included in Austria-Hungary, Germany, and the Soviet Union.

²⁴From 1938-45, data for Austria included in Germany.

²⁵Includes 32,897 persons returning in 1906 to their homes in the United States.

— Represents zero.

Note: From 1820-67, figures represent alien passengers arrived at seaports; from 1868-91 and 1895-97, immigrant aliens arrived; from 1892-94 and 1898-1993, immigrant aliens admitted for permanent residence. From 1892-1903, aliens entering by cabin class were not counted as immigrants. Land arrivals were not completely enumerated until 1908.

See Glossary for fiscal year definitions. For this table, fiscal year 1843 covers 9 months ending September 1843; fiscal years 1832 and 1850 cover 15 months ending December 31 of the respective years; and fiscal year 1868 covers 6 months ending June 30, 1868.

Source: U.S. Immigration and Naturalization Service, 1993 Statistical Yearbook, pp. 25-29.

2. TABLE 2.—REFUGEES AND ASYLEES GRANTED LAWFUL PERMANENT RESIDENT STATUS BY REGION AND SELECTED COUNTRY OF BIRTH; FISCAL YEARS 1946–90

Region and country of birth	Total	1946–50	1951–60	1961–70	1971–80	1981–90
All countries	2,374,264	213,347	492,371	212,843	539,447	1,013,620
Europe	917,623	211,983	456,146	55,235	71,858	155,512
Albania	4,074	29	1,409	1,952	395	353
Austria	17,046	4,801	11,487	233	185	424
Bulgaria	5,333	139	1,138	1,799	1,238	1,197
Czechoslovakia	35,844	8,449	10,719	5,709	3,646	8,204
Estonia	11,284	7,143	4,103	16	2	25
Germany	100,998	36,633	62,860	665	143	851
Greece	30,849	124	28,568	586	478	1,408
Hungary	74,302	6,086	55,740	4,044	4,358	4,942
Italy	63,151	642	60,657	1,198	346	394
Latvia	38,312	21,422	16,783	49	16	48
Lithuania	27,384	18,694	8,569	72	23	37
Netherlands	17,617	129	14,336	3,134	8	14
Poland	198,917	78,529	81,323	3,197	5,882	33,889
Portugal	5,063	12	3,650	1,361	21	21
Romania	56,819	4,180	12,057	7,158	6,812	29,798
Soviet Union	125,431	14,072	30,059	871	31,309	72,306
Spain	10,330	1	246	4,114	5,317	736
Yugoslavia	84,468	9,816	44,755	18,299	11,297	324
Other Europe	10,401	1,082	7,687	778	382	541
Asia	925,331	1,106	33,422	19,895	210,683	712,092
Afghanistan	21,345	—	1	—	542	22,946
Cambodia	117,084	—	—	—	7,739	114,064
China ²	38,990	319	12,008	5,308	13,760	7,928
Hong Kong	8,558	—	1,076	2,128	3,468	1,916
Indonesia	17,490	—	8,253	7,658	222	1,385
Iran	38,856	118	192	58	364	46,773
Iraq	14,499	—	130	119	6,851	7,540
Japan	4,525	3	3,803	554	56	110
Korea	4,615	—	3,116	1,316	65	120
Laos	154,830	—	—	—	21,690	142,964
Syria	3,594	4	119	383	1,336	2,145
Thailand	27,451	—	15	13	1,241	30,259
Turkey	6,332	603	1,427	1,489	1,193	1,896
Vietnam	454,191	—	2	7	150,266	324,453
Other Asia	12,971	59	3,280	862	1,890	7,593
Africa	30,202	20	1,768	5,486	2,991	22,149
Egypt	8,588	8	1,354	5,396	1,473	426
Ethiopia	18,230	—	61	2	1,307	18,542
Other Africa	3,384	12	353	88	211	3,181
Oceania	162	7	75	21	37	22
North America	497,625	163	831	132,068	252,633	121,840
Cuba	488,779	3	6	131,557	251,514	113,367
El Salvador	1,184	—	—	1	45	1,383
Nicaragua	3,937	1	1	3	36	5,590
Other North America	3,725	159	824	507	1038	1,500
South America	3,185	32	74	123	1,244	1,976
Chile	940	—	5	4	420	531
Other South America	2,245	32	69	119	824	1,445
Unknown or not reported	136	36	55	15	1	29

¹ Includes Mainland China and Taiwan.

—Represents zero.

Note.—See Glossary for fiscal year definitions. Data for fiscal years 1987–1988 have been adjusted. The data no longer include Cuban/Haitian entrants granted immigrant status.

Source: U.S. Immigration and Naturalization Service, 1993 Statistical Yearbook, p. 88.

XI. MISCELLANEOUS LISTS AND TABLES RELATING TO IMMIGRATION AND NATIONALITY

[As Amended Through P.L. 104-8, May 1, 1995]

A. LIST OF UNITED STATES CODE PROVISIONS CORRESPONDING TO PROVISIONS IN THE IMMIGRATION AND NATIONALITY ACT

(Source: Office of the Legislative Counsel, House of Representatives; as of January 1, 1995)

Provision in Immigration and Na- tionality Act	Provision in title 8, United States Code, chapter 12
TITLE I	Subchapter I.
101	1101.
102	1102.
103	1103.
104	1104.
105	1105.
106	1105a.
TITLE II	Subchapter II.
Chapter 1	Part I.
201	1151.
202	1152.
203	1153.
204	1154.
205	1155.
206	1156.
207	1157.
208	1158.
209	1159.
210	1160.
210A	1161.
Chapter 2	Part II.
211	1181.
212	1182.
213	1183.
214	1184.
[A. of 6/18/54	1184a] Philippine Trader provision.
215	1185.
216	1186a.
216A	1186b.
217	1187.
218	1188.
Chapter 3	Part III.
221	1201.
222	1202.
223	1203.
224	1204.
Chapter 4	Part IV.
231	1221.
232	1222.
234	1224.

Provision in Immigration and Nationality Act	Provision in title 8, United States Code, chapter 12
235	1225.
236	1226.
237	1227.
238	1228.
239	1229.
240	1230.
Chapter 5	Part V.
241	1251.
242	1252.
242A	1252a.
242B	1252b.
243	1253.
244	1254.
244A	1254a.
245	1255.
245A	1255a.
[§ 13 of PL 85-316	1255b] Adjustment of Diplomatic Status.
246	1256.
247	1257.
248	1258.
249	1259.
250	1260.
Chapter 6	Part VI.
251	1281.
252	1282.
253	1283.
254	1284.
255	1285.
256	1286.
257	1287.
258	1288.
Chapter 7	Part VII.
261	1301.
262	1302.
263	1303.
264	1304.
265	1305.
266	1306.
Chapter 8	Part VIII.
271	1321.
272	1322.
273	1323.
274	1324.
274A	1324a.
274B	1324b.
274C	1324c.
275	1325.
276	1326.
277	1327.
278	1328.
279	1329.
280	1330.
Chapter 9	Part IX.
281	1351.
282	1352.
283	1353.
[§ 1 of 3/2/31	1353a] Overtime compensation.
[§ 2 of 3/2/31	1353b] Extra compensation.
[§ 1 of 3/4/21	1323c] Foreign country compensation.
[A. of 8/22/40	1353d] Disposition of Funds.

Provision in Immigration and Nationality Act	Provision in title 8, United States Code, chapter 12
284	1354.
285	1355.
286	1356.
287	1357.
288	1358.
289	1359.
290	1360.
291	1361.
292	1362.
293	1363.
[§ 401 of PL 99-603	1364] Triennial immigration reports.
[§ 501 of PL 99-603	1365] State incarceration assistance.
TITLE III	Subchapter III.
Chapter 1	Part I.
301	1401.
[A. of 3/16/56	1401a] Service parent before 1952.
302	1402.
303	1403.
304	1404.
305	1405.
306	1406.
307	1407.
308	1408.
309	1409.
Chapter 2	Part II.
310	1421.
311	1422.
312	1423.
313	1424.
314	1425.
315	1426.
316	1427.
317	1428.
318	1429.
319	1430.
320	1431.
321	1432.
322	1433.
324	1435.
325	1436.
326	1437.
327	1438.
328	1439.
329	1440.
329A	1440-1.
[§ 3 of PL 90-633	1440e] Exemption from naturalization fees.
330	1441.
331	1442.
332	1443.
333	1444.
334	1445.
335	1446.
336	1447.
337	1448.
338	1449.
339	1450.
340	1451.
341	1452.
342	1453.
343	1454.
344	1455.
346	1457.

Provision in Immigration and Nationality Act	Provision in title 8, United States Code, chapter 12
347	1458.
Chapter 3	Part III.
349	1481.
351	1483.
356	1488.
357	1489.
Chapter 4	Part IV.
358	1501.
359	1502.
360	1503.
361	1504.
Title IV	Subchapter IV.
411	1521.
412	1522.
413	1523.
414	1524.
The following additional provisions are contained as permanent law provisions in title 8, United States Code, and are not in the Immigration and Nationality Act:	
.....	Chapter 13.
[§ 4 of 2/14/03	1551] Service establishment.
[§ 7 of 3/3/91	1552] Commissioner.
[§ 201 of 6/20/56	1553] Assistant Commissioners.
[§ 1 of 3/2/95	1554] Special Immigration Inspection Officers.
[§ 6 of 7/28/50	1555] Immigration Service Expenses.
[§ 6 of 6/25/10	1557] Prev. of Transportation.

B. CROSS-REFERENCES IN LAW TO PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT [INA]

(Source: Office of the Legislative Counsel, U.S. House of Representatives; as of January 1, 1995)

Abbreviations:

A. of=	Act of
CFA/FSM-MI=	Compact of Free Association (with the Federated State of Micronesia and the Marshall Islands) contained in title II of Pub. L. 99-239.
CFA/Palau=	Compact of Free Association (with Palau) contained in title II of Pub. L. 99-658
CSPA=	Chinese Student Protection Act of 1992 (Pub. L. 102-404)
DOCJSAA-88=	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (as contained in section 101(a) of P.L. 100-202)
end=	end of provision
F.=	first section of
FORPAA-88=	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of P.L. 100-202)
FSA=	Food Stamp Act of 1977
HCDA=	Housing and Community Development Act of 1980 (Pub. L. 96-399)
IA'90=	Immigration Act of 1990 (Pub. L. 101-649)
INTCA94=	Immigration and Nationality Technical Corrections Act of 1994 (Pub. L. 103-416)
IRCA=	Immigration Reform and Control Act of 1986 (Pub. L. 99-603)
IRC=	Internal Revenue Code of 1986
ls=	Last sentence
MASAWPA=	Migrant and Seasonal Agricultural Worker Protection Act (Pub. L. 97-470)
MSSA=	Military Selective Service Act
MATINA=	Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Pub. L. 102-232)
PL=	Public Law
REAA=	Refugee Education Assistance Act of 1980 (Pub. L. 96-422)
Ref=	Refugee Act of 1980 (Pub. L. 96-212) [selected cross-references]
RRA=	Railroad Retirement Act of 1974
RUIA=	Railroad Unemployment Insurance Act
SSA=	Social Security Act
USC=	United States Code
*=	apparent incorrect reference
[2x], [3x]=	reference appears 2 or 3 times
Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
Title I	101(b).
101	18 USC 831(c)(2), 1091(d)(2).
101(a)	§4 of PL 89-732.
101*[(a)](3)	§568(c)(1) of P.L. 103-382

Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
101(a)(15)	214(b), 214(e)(2), 221(a)(2); §6(f)(2)(B) of FSA [7 USC 2015(f)(2)(B)]; §804(1) of United State Information and Educational Exchange Act of 1948 [22 USC 1474(1)]; §635(f) of Foreign Assistance Act of 1961 (PL 87-195) [22 USC 2395(f)]; §9 of Peace Corps Act (PL 87-293) [22 USC 2508]; §408(e) of P.L. 96-53 [22 USC 3508(e)]; §214(a)(1) of HCDA [42 USC 1436a(a)(1)]; §3(b) of MSSA [50A USC 453(b)].
101(a)(15)(A)	221(b), 247(a), 247(b), 248(3), 263(b); §6(a)(1) of MSSA [50A USC 456(a)(1)]; §§137(b)(6), (8) of PL 100-204; NAFTA Appendix 1603.D.4, para. 2(d).
101(a)(15)(A)(i)	101(a)(15)(A)(iii), 102(1) [2x], 241(b); [§4 of A. of 11/2/66]; §13(a) of A. 9/11/57 [8 USC 1255b].
101(a)(15)(A)(ii)	101(a)(15)(A)(iii), 102(3); §13(a) of A. 9/11/57 [8 USC 1255b].
101(a)(15)(B)	217(a)(1), 221(g) 2d proviso; ¶¶1,2 of Annex 1502.1 of U.S.-Canada Free-Trade Agreement.
101(a)(15)(C)	248(1).
101(a)(15)(D)	214(f)(1), 248(1), 252(a); §315(d) of PL 99-603.
101(a)(15)(D)(i)	251(d), 258(a), 258(c)(4)(A).
101(a)(15)(D)(ii)	§2 of PL 99-505.
101(a)(15)(E)	101(a)(45), 247(a), 247(b); A. of 6/18/54 [8 USC 1184a]; §6(a)(1) of MSSA [50A USC 456(a)(1)]; §307(a) of PL 100-449; §204(b) of IA'90; ¶4 of Annex 1502.1 of U.S.-Canada Free-Trade Agreement; §341(a) of PL 103-182.
101(a)(15)(F)	221(g) 2d proviso; §221(a) of IA'90; §§871(c), 872(b)(3), 1441(b), 3121(b)(19) [2x], 3231(e)(1) [2x], 3306(c)(19) [2x], 7701(b)(5)(D)(i)(I) of IRC; §210(a)(19) of SSA [2x] [42 USC 410(a)(19)]; §1(h)(6)(ii) of RRA [2x] [45 USC 231(h)(6)(ii)]; §1(i)(1) of RUIA [2x] [45 USC 351(i)(1)].
101(a)(15)(G)	221(b), 247(a), 247(b), 248(3), 263(b); §6(a)(1) of MSSA [50A USC 456(a)(1)].
101(a)(15)(G)(i)	101(a)(15)(G)(iii), 101(a)(27)(I)(i), 102(2) [2x], 241(b); §13(a) of A. 9/11/57 [8 USC 1255b]
101(a)(15)(G)(ii)	101(a)(15)(G)(iii), 102(3); §13(a) of A. 9/11/57 [8 USC 1255b].
101(a)(15)(G)(iii)	102(3).
101(a)(15)(G)(iv)	101(a)(27)(I)(i)-(iii), 102(3).
101(a)(15)(H)	101(a)(27)(H)(iii), 212(e), 214(c)(1), 214(c)(8); §3306(c)(1)(B) of IRC.
101(a)(15)(H)(i)	214(b), 214(h); §937 of PL 101-189; §2(a)(1), (b) [2x] of PL 101-238; schedule 1 to Annex 1502.1 of U.S.-Canada Free-Trade Agreement [2x].
101(a)(15)(H)(i)(a)	101(a)(15)(H)(i)(b), 212(m)(1), 212(m)(2)(A), 212(m)(2)(A)(vi), 212(m)(2)(A) end, 212(m)(2)(E)(i), 212(m)(4), 212(m)(5).
101(a)(15)(H)(i)(b)	212(j)(2), 212(n)(1) [2x], 212(n)(1)(A)(i), 214(c)(5), 214(c)(5)(A), 214(g)(1)(A), 214(g)(4), 214(i)(1), 214(i)(2), 214(k)(2)(A); §303(a)(8) MATINA; ; NAFTA Appendix 1603.D.4, para. 2(c).
101(a)(15)(H)(ii)	218(h)(1); 10 USC 2864(a); §3121(b)(18) of IRC; §210(a)(18) of SSA [42 USC 410(a)(18)]; §§2(b)(1), §3 of PL 97-271; §3 of PL102-110.
101(a)(15)(H)(ii)(a)	101(a)(15)(H)(i)(b), 214(c) [2x], 218(g)(1)(A), 218(i)(2); §§3(8)(B)(ii), 3(10)(B)(iii) of MASAWPA [29 USC 1802(8)(B)(ii), 1802(10)(B)(iii)]; §§301(e), 305 of IRCA; §§207(c)(1), 207(c)(2) of IA'90.
101(a)(15)(H)(ii)(b)	214(c)(5)(A), 214(g)(1)(B)
101(a)(15)(J)	101(a)(27)(H)(iii), 212(e) [2x], 212(j)(1), 244(f)(2), 244(f)(3)(A), 245A(a)(2)(C), 248(2), 248(3) [2x]; §§871(c), 872(b)(3), 1441(b), 3121(b)(19) [2x], 3231(e)(1) [2x], 3306(c)(19) [2x], 7701(b)(5)(D)(i)(II) of IRC; §210(a)(19) of SSA [2x] [42 USC 410(a)(19)]; §1(h)(6)(ii) of RRA [2x] [45 USC 231(h)(6)(ii)]; §1(i)(1) of RUIA [2x] [45 USC 351(i)(1)]; §555 of PL 100-461.
101(a)(15)(K)	214(d), 245(d) [2x], 248(1).

Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
101(a)(15)(L)	212(e), 214(b), 214(c), 214(c)(1), 214(c)(2)(A), 214(c)(2)(B), 214(c)(2)(C), 214(c)(2)(D)(i), 214(c)(2)(D)(ii), 214(h); §206(a) of IA'90; ¶8 of Annex 1502.1 of U.S.-Canada Free-Trade Agreement.
101(a)(15)(M)	§§871(c), 1441(b), 3121(b)(19) [2x], 3231(e)(1) [2x], 3306(c)(19) [2x], 7701(b)(5)(D)(i)(II) of IRC; §210(a)(9) of SSA [2x] [42 USC 410(a)(19)].
101(a)(15)(N)	101(a)(27)(I)(i)–(ii).
101(a)(15)(O)	101(a)(15)(H)(i)(b), 214(a)(2)(A), 214(c)(1), 214(c)(5)(B), 214(c)(6)(E)(i), 214(c)(8); §202(b) MATINA.
101(a)(15)(O)(i)	101(a)(15)(O)(ii)(I), 101(a)(15)(O)(iii), 101(a)(46), 214(c)(3)(A), 214(c)(3), 214(c)(6)(A)(i), 214(c)(6)(E)(ii); §3 of PL102–110.
101(a)(15)(O)(ii)	101(a)(15)(O)(iii), 214(c)(3)(B), 214(c)(6)(A)(ii); §3 of PL102–110.
101(a)(15)(P)	101(a)(15)(H)(i)(b), 214(a)(2)(B) [2x], 214(c)(4)(C), 214(c)(5)(B), 214(c)(6)(E)(i), 214(c)(8); §202(b) MATINA.
101(a)(15)(P)(i)	101(a)(15)(P)(iv), 214(c)(1), 214(c)(4)(D), 214(c)(6)(A)(iii), 214(c)(6)(E)(ii); §3 of PL102–110.
101(a)(15)(P)(i)(a)	214(c)(4)(A).
101(a)(15)(P)(i)(b)	214(c)(4)(B)(i).
101(a)(15)(P)(ii)	101(a)(15)(P)(iv), 214(c)(4)(E).
101(a)(15)(P)(iii)	101(a)(15)(P)(iv), 214(c)(4)(D), 214(c)(6)(A)(iii), 214(g)(1)(C); §3 of PL102–110.
101(a)(15)(Q)	214(c)(8); §§871(c), 872(b), 1441(b), 3121(b)(19), 3231(e)(1), 3306(c)(19), 7701(b) of IRC; 210(a) of SSA [42 USC 410(a)].
101(a)(15)(S)	212(d)(1) [4x], 245(c)(5), 248(1).
101(a)(15)(S)(i)	101(a)(15)(S) end, 214(j)(1) [added by P.L. 103–322], 245(i)(1)(A) [added by P.L. 103–322].
101(a)(15)(S)(i)(I)	245(i)(1)(A) [added by P.L. 103–322].
101(a)(15)(S)(i)(III)	245(i)(1)(B) [added by P.L. 103–322].
101(a)(15)(S)(ii)	101(a)(15)(S) end [2x], 214(j)(1) [added by P.L. 103–322], 245(i)(2)(A) [added by P.L. 103–322].
101(a)(15)(S)(ii)(I)	245(i)(2)(A) [added by P.L. 103–322].
101(a)(20)	210(a)(5), 210(g); §319(b)(2) of PL 92–225 [2 USC 441e(b)(2)]; §6(f)(2)(B) of FSA [7 USC 2015(f)(2)(B)]; 18 U.S.C. 3077(2)(B), 3142(d)(1)(B); §3(5)(A) of Comprehensive Anti-Apartheid Act of 1986 (PL 99–440) [22 USC 5001(5)(A)]; §214(a)(1) of HCDA [42 USC 1436a(a)(1)]; §604 of National Security Act of 1947 [50 USC 424]; §1(i) of PL 95–511 [50 USC 1801(i)]; §6(a)(1) of MSSA [50A USC 456(a)(1)]; §305 of IRCA.
101*[(a)](20)	§568(c)(4) of P.L. 103–382.
101(a)(22)	10 USC 1060a(f)(2)(B); 18 USC 1119(a), 1203(c), 2280(e), 2281(d), 2331(2), 2332a(b)(1), 3077(2)(A); 46 USC 2101(3a).
101*[(a)](22)	§568(c)(5) of P.L. 103–382.
101(a)(27)	202(a)(1), 203(b)(4).
101(a)(27)(A)	201(b)(1)(A), 203(b)(4), 211(b); F. of Priv. L. 98–53.
101(a)(27)(B)	201(b)(1)(A), 203(b)(4).
101(a)(27)(C)(i)	101(a)(27)(C)(iii).
101(a)(27)(C)(ii)(I)	101(a)(15)(R)(ii).
101(a)(27)(C)(ii)(II)	101(a)(15)(R)(ii), 203(b)(4).
101(a)(27)(C)(ii)(III)	101(a)(15)(R)(ii), 203(b)(4).
101(a)(27)(D)	203(e)(1), 204(a)(1)(E)(i), 204(a)(1)(E)(ii); §152(a) of IA'90.
101(a)(27)(H)	214(k)(3), 245(c)(2).
101(a)(27)(I)	245(c)(2); §2(o)(2) of PL 100–525.
101(a)(27)(I)(i)	101(a)(15)(N)(i).
101(a)(27)(I)(ii)	101(a)(15)(N)(ii).
101(a)(27)(I)(iii)	101(a)(15)(N)(ii), 101(a)(27)(I)(iv).
101(a)(27)(I)(iv)	101(a)(15)(N)(ii).
101(a)(27)(J)	241(c), 245(c)(2), 245(h), 245(h) end.
101(a)(27)(K)	203(b)(6)(A), 203(b)(6)(B)(i), 203(b)(6)(B)(ii), 203(b)(6)(B)(iii), 245(c)(2), 245(g); §1079 of PL 102–484.
101(a)(36)	244A(f)(2); §506(c) of PL 94–241; §§204(j)(1), 501(e) of IRCA; §801(f) of IA'90.

Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
101(a)(40)	§103(c)(7) of PL 103-199.
101(a)(42)	207(c)(2), 207(c)(4); §702(c)(2) of DOCJSAA-88; §903(c)(2) of PL 100-204.
101(a)(42)(A)	208(a), 208(b), 209(b)(3).
101(a)(43)	101(f)(8), 242A(a)(1); §7350(a)(1) of PL 100-690; §510(b) of IA'90.
101(a)(44)(A)	§124(d)(2) of IA'90.
101(a)(44)(B)	§124(d)(1) of IA'90.
101(b)	§4 of PL 89-732.
101(b)(1)	101(b)(2); §154(d) of IA'90.
101(b)(1)(A)	203(d), 207(c)(2), 208(c); §584(b)(3) of FORPAA-88; §§124(a)(2), 132(d), 134(d) of IA'90.
101(b)(1)(B)	203(d), 207(c)(2), 208(c); §584(b)(3) of FORPAA-88; §§124(a)(2), 132(d), 134(d) of IA'90.
101(b)(1)(C)	101(b)(2), 203(d), 207(c)(2), 208(c); §584(b)(3) of FORPAA-88; §§124(a)(2), 132(d), 134(d) of IA'90.
101(b)(1)(D)	101(b)(2), 203(d), 207(c)(2), 208(c); §584(b)(3) of FORPAA-88; §§124(a)(2), 132(d), 134(d) of IA'90.
101(b)(1)(E)	203(d), 207(c)(2), 208(c), 322(a)(4); §584(b)(3) of FORPAA-88; §§124(a)(2), 132(d), 134(d) of IA'90.
101(b)(1)(F)	101(b)(2), 204(d), 322(a)(4).
101(b)(5)	286(e)(1)(D); §13031(b)(1)(A)(i)(IV) of PL 99-272 [19 USC 58c(b)(1)(A)(i)(IV)].
101(e)(3)	§103(c)(7) of PL 103-199.
101(h)	212(a)(2)(E)(i).
103(c)	103(d)(1).
106	210(e)(3)(A), 242A(b)(3), 242A(d)(3)(A)(ii), 245A(f)(4)(A).
106(a)(1)	242A(d)(3)(A)(iii).
106(a)(5)	242B(c)(4).
106(a)(5)(B)	106(a)(4).
106(d)(1)	106(d)(2).
Title II	101(b); §401(d) of IRCA.
201	210(c)(1), 245A(d)(1); §19 of PL 97-116; §2(a) of PL 101-238; §§132(a), 133, 134(a), 152(d), 154(a)(3) of IA'90.
201(a)	201(b), 203(c)(1)(A); §2(c)(1) of PL 97-271; §314(a) of IRCA; §3(a) of PL 100-658.
201(a)(3)	203(c)(1)(A).
201(b)	101(b)(1)(F), 201(a), 202(c), 204(b), 204(e), 204(f)(1), 216(g)(1)(A), 245(c)(2), 245(c)(4); §506(c) of PL 94-241; §2(c)(4) of PL 97-271; §555 of PL 100-461 (102 Stat. 2268-36); §112(a)(2)(A) of IA'90.
201(b)(2)	203(c)(1)(A), 203(f).
201(b)(2)(A)	201(c)(2); §112(a)(2)(A) of IA'90.
201(b)(2)(A)(i)	202(a)(1), 204(a)(1)(A)(i), 204(a)(1)(A)(ii), 204(a)(1)(A)(iii), 204(a)(1)(A)(iv); §2(c)(4) of PL 97-271; §101(c) of IA'90.
201(b)(2)(B)	201(c)(2); §112(a)(2)(A) of IA'90.
201(c)	201(a)(1), 202(e)(1), 203(a).
201(c)(1)	201(c)(3)(B).
201(c)(1)(A)	201(c)(1)(B)(ii).
201(c)(1)(A)(i)	201(c)(1)(B)(i).
201(c)(1)(B)	201(c)(1)(A).
201(c)(2)	201(c)(1)(A)(ii).
201(c)(3)	201(c)(1)(A)(iii).
201(d)	201(a)(2), 202(e)(1), 203(b), 245(i)(3) [added by P.L. 103-322].
201(d)(1)	201(d)(2)(B).
201(d)(2)	201(d)(1)(B).
201(e)	201(a)(3), 203(c)(1).
202	210(c)(1), 245(b), 245A(d)(1); §19 of PL 97-116; §2(c)(1) of PL 97-271; §§203(c), 314(a) of IRCA; §2(a) of PL 101-238; §13(c) of A. of 9/11/57 [8 USC 1255b(c)]; §3(a) of PL 100-658; §§104(d)(2), 132(a), 133, 134(a), 152(d), 154(a)(3), 154(b)(1)(A), 204(b)(1) of IA'90.
202(a)	202(c), 203(b)(6)(A), 203(b)(6)(B)(ii); §3(c) of PL 100-658; §§104(d)(2), 124(a)(1) of IA'90.

Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
202(a)(2)	202(a)(1), 202(a)(3) [2x], 202(a)(4)(A)(i), 202(b), 202(b)(1), 202(b)(2), 202(e); §§2(a)(4), 2(d)(1), 2(d)(3)(B) of CSPA.
202(a)(3)	202(a)(2).
202(a)(4)	202(a)(2), 202(e)(2).
202(a)(4)(A)	202(a)(4)(B)(i), 202(e).
202(a)(4)(A)(ii)	202(a)(4)(A)(i).
202(a)(4)(B)(i)	202(a)(4)(B)(ii).
202(a)(4)(B)(ii)	202(a)(4)(B)(i).
202(b)	§714 of PL 97-113; §103 of IA'90; §4(b)(6) of Taiwan Relations Act (PL 96-8) [22 USC 3303(b)(6)].
202(e)	202(a)(4)(B)(i), 202(a)(4)(B)(ii), 202(a)(4)(C), 202(a)(4)(C)(i), 202(a)(4)(C)(ii), 202(a)(4)(D) [2x], 203(b)(6)(B)(iii), 245(b); §2(d)(2) of CSPA.
202(e)(2)	202(a)(4)(D).
202(e)(7) [pre-IA'90] ..	§204(c)(1) of Ref.
203	202(a)(1), 202(e), 212(a)(7)(A)(i)(II), 245(b).
203(a)	201(a)(1) [2x], 201(c)(3)(B), 201(d)(2)(C), 202(a)(2), 202(a)(3), 202(a)(4)(A)(i), 202(a)(4)(A)(ii), 202(a)(4)(B)(i), 202(a)(4)(B)(ii), 202(a)(4)(C)(i), 202(a)(4)(C)(ii), 202(e) [4x], 202(e)(1), 203(d), 203(e)(1), 203(f), 203(g), 204(b), 204(e), 212(d)(11); §204(c)(2) of Ref; §555 of PL 100-461 (102 Stat. 2268-36); §§103, 154(b)(1)(B)(i) of IA'90.
203(a)(1)	202(a)(4)(D), 203(a)(2), 203(a)(3), 204(a)(1)(A)(i), 204(f)(1).
203(a)(1)-(3)	203(a)(4).
203(a)(1)-(4)	202(e)(2).
203(a)(2)	202(a)(4)(A)(ii), 202(a)(4)(B)(ii), 202(a)(4)(C)(i), 202(a)(4)(C)(ii), 202(a)(4)(D) [2x], 203(a)(3), 204(a)(1)(B)(i), 204(a)(2)(A), 212(a)(6)(E)(ii), 216(g)(1)(C), 241(a)(1)(E)(ii); §2(c)(4) of PL 97-271; §§112(b), 155(b)(3) of IA'90.
203(a)(2)(A)	202(a)(4)(A)(i), 202(a)(4)(B)(i), 202(a)(4)(C)(ii), 202(e), 203(a)(2) end, 204(a)(1)(B)(ii), 204(a)(1)(B)(iii).
203(a)(2)(B)	202(a)(4)(C).
203(a)(3)	202(a)(4)(D), 204(a)(1)(A)(i), 204(f)(1); §2(c)(4) of PL97-271; §161(c)(2) of IA'90.
203(a)(3) [pre-IA'90] ..	§§161(c)(1), 161(c)(3), 161(c)(4)(A) of IA'90.
203(a)(4)	202(a)(4)(D), 203(a)(1), 204(a)(1)(A)(i), 212(d)(11); §2(c)(4) of PL 97-271; §161(c)(2) of IA'90.
203(a)(4) [pre-IA'90] ..	§161(c)(2) of IA'90.
203(a)(5)	§2(c)(4) of PL 97-271; §155(b)(3) of IA'90.
203(a)(5) [pre-IA'90] ..	§161(c)(2) of IA'90.
203(a)(6) [pre-IA'90] ..	§§161(c)(1), 161(c)(3), 161(c)(4)(A) of IA'90.
203(a)(7) [pre-IA'90] ..	§§203(h), 204(c)(1), 204(c)(2), 204(c)(3) of Ref; §3304(a)(14)(A) of IRC; §§402(a)(33), 415(f)(1), 1614(a)(1)(B)(i)(II), 1621(f)(2)(A) of SSA, [42 USC 602(a)(33), 615(f)(1), 1382c(a)(1)(B)(i)(II), 1382j(f)(2)(A)]; §§314(a), 314(b) of IRCA; §3(b) of PL 100-658; §162(a)(2) of IA'90.
[203(a)(8) old]	§19(1) of PL 97-116; §161(c)(3) [2x] of IA'90.
203(b)	201(a)(2) [2x], 201(c)(3)(C), 202(a)(2), 202(a)(3), 202(e) [4x], 202(e)(1), 202(e)(3), 203(d), 203(e)(1), 203(f), 203(g), 204(b), 204(e); §103 of IA'90; §103 of IA'90.
203(b)(1)-(5)	202(e)(3) [2x].
203(b)(1)	203(b)(2)(A), 203(b)(3)(A), 203(b)(6)(B)(i), 203(b)(6)(B)(iii); §§154(b)(1)(B)(i), 161(c)(1)(A) of IA'90.
203(b)(1)(A)	204(a)(1)(C).
203(b)(1)(B)	204(a)(1)(D).
203(b)(1)(C)	204(a)(1)(D); §206(a) of IA'90.
203(b)(2)	203(b)(3)(A) [2x], 203(b)(6)(B)(i), 203(b)(6)(B)(iii), 204(a)(1)(D), 204(b), 212(a)(5)(C); §§161(c)(1)(A), 161(c)(3), 161(c)(4)(A) [2x] of IA'90.
203(b)(2)(A)	203(b)(2)(B), 203(b)(2)(C); §§3, 4(a), 4(c) of PL 102-509.
203(b)(3)	203(b)(6)(B)(i), 203(b)(6)(B)(iii), 204(a)(1)(D), 204(b), 212(a)(5)(C); §§161(c)(1)(A), 161(c)(4)(A) [2x] of IA'90.
203(b)(3)(A)	203(b)(3).
203(b)(3)(A)(i)	§161(c)(3) of IA'90; §§2(a)(1), 2(d)(2)(A) of CSPA.
203(b)(3)(A)(iii)	203(b)(3)(B).

Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
203(b)(4)	203(b)(1), 204(a)(1)(E)(i), 245(i)(3) [added by P.L. 103-322].
203(b)(5)	203(b)(1), 204(a)(1)(F), 216A(b)(1)(C), 216A(f)(1); §610(a), 610(b) of PL 102-395; §2(d)(2)(B) of CSPA.
203(b)(5)(A)	203(b)(5)(B)(i), 203(b)(5)(C)(i), 203(b)(5)(C)(ii), 203(b)(5)(C)(iii).
203(b)(5)(A)(iii)	§610(c) of PL 102-395.
203(b)(5)(C)	203(b)(5)(A)(ii).
203(b)(5)(C)(i)	203(b)(5)(C)(ii), 203(b)(5)(C)(iii).
203(b)(6)(B)	203(b)(6)(A)..
203(c)	201(a)(3) [2x], 203(d), 203(e)(2), 203(f), 203(g), 204(a)(1)(G)(i), 204(a)(1)(G)(ii)(I), 204(a)(1)(G)(ii)(II), 204(e); §§131(c)(2)(A), 155(a)* of IA'90; §217(b)(1) of INTCA94.
203(c)(1)	§204(b)(1) of IA'90.
203(c)(1)(A)	203(c)(1)(B)(i)(I), 203(c)(1)(B)(ii)(I), 203(c)(1)(C).
203(c)(1)(C)	203(c)(1)(E)(ii)(I), 203(c)(1)(E)(iii)(I).
203(c)(1)(D)(i)	203(c)(1)(D)(ii), 203(c)(1)(D)(iii).
203(c)(1)(D)(ii)	203(c)(1)(E)(ii)(II).
203(c)(1)(D)(iii)	203(c)(1)(E)(iii)(II).
203(c)(1)(E)(ii)	203(c)(1)(E)(iv).
203(c)(1)(E)(iii)	203(c)(1)(E)(iv).
203(c)(1)(E)(iv)	203(c)(1)(E)(ii), 203(c)(1)(E)(iii).
203(c)(1)(E)(v)	203(c)(1)(E)(ii), 203(c)(1)(E)(iii), 203(c)(1)(E)(iv).
203(c)(1)(F)	§217(b)(1) of INTCA94.
203(c)(2)	203(c)(1); §131(c) of IA'90; §217(b)(3) of INTCA94.
203(c)(3)	§131(c)(2) of IA'90.
203(d)	216(g)(1); §161(c)(3) of IA'90.
203(e) [old]	§155(a) of IA'90.
[203(g) [old]	§5 of PL 95-412; §204(c)(1) of Ref.
[203(h) [old]	§5 of PL 95-412; §204(c)(1) of Ref.
204	203(f), 205, 212(n)(2)(C)(ii), 214(h); §112(b) of IA'90.
204(a)	203(e)(1), 204(d), 204(g), 216(b)(1)(B), 216(d)(1)(A)(ii), 245(e)(3), 245A(a)(1)(B); §2(c)(4) of PL 97-271; §§161(c)(1), 161(c)(2) of IA'90; §2(a)(1) of CSPA.
204(a)(1)(A)(i)	201(b)(2)(A)(i).
204(a)(1)(A)(iii)	204(a)(1)(H), 204(h).
204(a)(1)(A)(iii)(I)	204(a)(1)(B)(ii), 204(h).
204(a)(1)(A)(iii)(II)	204(a)(1)(B)(ii).
204(a)(1)(A)(iv)	204(a)(1)(A)(iii), 204(a)(1)(H).
204(a)(1)(B)(ii)	204(a)(1)(H), 204(h).
204(a)(1)(B)(iii)	204(a)(1)(B)(ii), 204(a)(1)(H).
204(a)(2)(A)	204(a)(2)(B).
204(b)	204(c), 204(d).
204(g)	245(e)(3).
204(f)(1)	204(f)(2), 204(f)(3).
204(f)(2)	204(f)(1), 204(f)(4)(A).
204(f)(2)(A)	204(f)(1), 204(f)(3)(A).
204(f)(2)(C)(ii)	204(f)(3)(A).
204(f)(4)	204(f)(2)(B).
204(f)(4)(A)	204(f)(4)(B).
205	204(h).
207	201(b)(1)(B), 209(a)(1), 211(c), 212(d)(5)(B), 274B(a)(3)(B); §101(3)(A) of REAA [8 USC 1522 nt.]; §6(f)(2)(D) of FSA [7 USC 2015(f)(2)(D)]; §603(b) of PL99-93 [22 USC 4703(b)]; §214(a)(3) of HCDA [42 USC 1436a(a)(3)]; §203(h), 204(c)(2) of Ref; §584(c) of FORPAA-88; §599D(a) of PL 101-167; §104(a)(2) of IA'90.
207(a)	207(b)(3), 207(c)(1), 207(d)(2), 207(d)(3)(A), 209(b).
207(a)(3)	§599D(b)(3) of PL 101-167.
207(b)	207(a)(1), 207(a)(2), 207(c)(1), 207(d)(2), 207(d)(3)(B).
207(c)	§§402(a)(33), 415(f)(2) of SSA [42 USC 602(a)(33), 615(f)(2)]; §101(b) of REAA [8 USC 1522 nt.].
207(c)(1)	207(c)(2) [2x]; §1621(f)(2)(B) of SSA [42 U.S.C. 1382j(f)(2)(B)].
207(c)(2)	412(a)(10).
207(c)(3)	207(c)(1), 207(c)(2).

Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
207(e)	101(a)(42)(B), 207(a)(1).
208	274B(a)(3)(B), §6(f)(2)(D) of FSA [7 USC 2015(f)(2)(D)]; §603(b) of PL99-93 [22 USC 4703(b)]; §§402(a)(33), 415(f)(4) of SSA [42 USC 602(a)(33), 615(f)(4)]; §214(a)(3) of HCDA [42 USC 1436a(a)(3)]; §203(h) of Ref.
208(a)	208(b), 208(c), 208(d).
208(b)	§104(d)(1)(A) of IA'90.
209	201(b)(1)(B), 210(b)(2)(B), 245A(c)(2)(B).
209(a)(1)	209(a)(2).
209(b)	§§104(c), 104(d)(1), 104(d)(1)(C) of IA'90.
209(b)(2)	§104(d)(1)(C) of IA'90.
209(b)(3)	§104(d)(1)(C) of IA'90.
209(c)	209(a)(2), 209(b)(5).
210	201(b)(1)(C), 210A(a)(6)(A)(i), 212(o)(2), 212(o)(2)(A), 245(i)(1) [added by PL 103-307], 245(i)(1)(i) [added by PL 103-307]; §402(f)(2) of SSA [42 USC 602(f)(2)]; §§204(c)(1)(D)(i), 204(j)(4), 304(j)(4) of IRCA; §§112(c)(1), 301(b)(2)(A) of IA'90; §109 of INTCA94.
210(a)	210(b)(1)(A), 210(d)(1), 210(d)(2), 210(d)(3)(A), 210(f), 274B(a)(3)(B).
210(a)(1)	210(a)(2), 210(a)(2)(A), 210(a)(2)(C), 210(a)(3)(A), 210(a)(3)(B), 210(a)(5), 210(b)(1)(B), 210(b)(3)(B)(i), 210(d)(1), 274A(i)(3)(C)(i).
210(a)(1)(A)	210(a)(2)(A), 210(a)(2)(B), 210(d)(3)(A), 210(d)(3)(B).
210(a)(1)(B)(ii)	210(b)(3)(A), 210(b)(3)(B)(i), 210(b)(3)(B)(iii).
210(a)(1)(C)	210(c)(2).
210(a)(2)	210(a)(3)(B), 274A(i)(3)(B)(ii).
210(a)(2)(A)	210(a)(2)(B), 210(a)(2)(C).
210(a)(2)(B)	210(a)(2)(C).
210(a)(2)(C)	210(a)(2)(A).
210(a)(3)(B)	210(b)(6)(A).
210(a)(5)	210(g).
210(b)(1)(A)	210(d)(3)(B).
210(b)(1)(A)(ii)	210(b)(4).
210(b)(2)	210(b)(1)(A)(ii).
210(b)(3)(B)(i)	210(b)(3)(B)(ii).
210(b)(7)	210(b)(6)(A).
210(b)(7)(A)	210(b)(7)(B).
210(c)(2)	210(a)(1)(C), 210(a)(3)(B)(ii)(I).
210(c)(2)(B)(i)	210(c)(2)(B)(ii).
210(c)(2)(B)(ii)	210(c)(2)(B)(i).
210(d)(2)	210(d)(3)(B).
210(f)	210(g); §§402(f)(1), 402(f)(2), 472(a) of SSA [42 USC 602(f)(1), 602(f)(2), 672(a)]; §301(d) of IA'90.
210(h)	274A(i)(3)(C)(ii); §304(j)(3) of IRCA.
210A*	201(b)(1)(C), 241(a)(1)(F); §402(f)(2) of SSA [42 USC 602(f)(2)]; §§204(c)(1)(D)(i), 204(j)(4), 304(b)(1)(B), 304(j)(4) of IRCA.
210A(a)*	274B(a)(3)(B).
210A(b)*	§304(b)(1)(E) of IRCA.
210A(d)(5)(A)*	241(a)(1)(F).
210A(d)(7)*	§§402(f)(1), 402(f)(2), 472(a) of SSA [42 USC 602(f)(1), 602(f)(2), 672(a)].
211(a)	201(a)(1)-(3), 201(b)(2)(A)(ii), 211(c), 212(a)(7)(A)(i)(I).
211(b)	211(a), 212(c), 212(d)(11), 240(b).
211(c)	211(a).
212	221(g)(1), 221(g)(3), 235(a).
212(a)	210(c)(2)(B)(i), 210(c)(2)(B)(ii), 212(b), 212(c), 212(d)(1), 212(d)(3)(A), 212(d)(3)(B), 212(d)(7), 232, 244A(c)(2)(A)(ii), 245(h)(2)(B), 245A(d)(2)(B)(i), 249, 272(c), 286(h)(2)(A)(v), 286(h)(2)(A)(vi); §1012(b)(1)(D) of PL 98-164; §204(c)(3) of Ref; §2(a)(3)(B) of CSPA.
212(a)(1)	234 [2x], 236(d), 272(a).
212(a)(1)(A)	212(a)(1)(B).
212(a)(1)(A)(i)	212(g)(1).
212(a)(1)(A)(ii)	212(g)(2).

Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
212(a)(2)	241(c), 277; §301(a)(1) of IA'90.
212(a)(2)(A)	101(f)(3), 210(c)(2)(B)(ii)(I), 244A(c)(2)(A)(iii)(I), 245A(d)(2)(B)(ii)(I), 245(h)(2)(B).
212(a)(2)(A)(i)(I)	212(a)(2)(A)(ii), 212(h).
212(a)(2)(A)(i)(II)	212(h).
212(a)(2)(A)(ii)	212(a)(2)(A)(i).
212(a)(2)(B)	101(f)(3), 210(c)(2)(B)(ii)(I), 212(h), 244A(c)(2)(A)(iii)(I), 245(h)(2)(B), 245A(d)(2)(B)(ii)(I).
212(a)(2)(C)	101(f)(3), 207(c)(3), 209(c), 210(c)(2)(B)(ii)(III), 244A(c)(2)(A)(iii)(II), 245(h)(2)(B), 245A(d)(2)(B)(ii)(II); §599E of PL101-167; §584(a)(2) of FORPAA-88; §2(a)(3)(B) of CSPA.
212(a)(2)(D)	101(f)(3), 212(h).
212(a)(2)(D)(i)	212(h)(1)(A)(i).
212(a)(2)(D)(ii)	212(h)(1)(A)(i).
212(a)(2)(E)	101(h), 212(h).
212(a)(3)	210(c)(2)(B)(ii)(IV), 212(c), 241(c), 245A(d)(2)(B)(ii)(III), 277; §301(a)(1) of IA'90.
212(a)(3)(A)-(C)	102 [3x].
212(a)(3)(A)	207(c)(3), 209(c), 212(d)(8), 235(c), 244A(c)(2)(A)(iii)(III), 245(h)(2)(B); §599E(c) of PL101-167; §584(a)(2) of FORPAA-88; §2(a)(3)(B) of CSPA.
212(a)(3)(A)(i)(I)	212(d)(3) [2x].
212(a)(3)(A)(ii)	212(d)(3) [2x], 235(c).
212(a)(3)(A)(iii)	212(d)(3) [2x].
212(a)(3)(B)	207(c)(3), 209(c), 212(d)(8), 235(c), 244A(c)(2)(A)(iii)(III), 245(h)(2)(B); §599E(c) of PL101-167; §584(a)(2) of FORPAA-88; §2(a)(3)(B) of CSPA.
212(a)(3)(B)(iii)	212(a)(3)(B)(i)(II), 241(a)(4)(B).
212(a)(3)(C)	207(c)(3), 209(c), 212(d)(3) [2x], 212(d)(8), 235(c), 244A(c)(2)(A)(iii)(III), 245(h)(2)(B); §599E(c) of PL 101- 167; §584(a)(2) of FORPAA-88; §2(a)(3)(B) of CSPA.
212(a)(3)(C)(i)	212(a)(3)(C)(ii), 212(a)(3)(C)(iii), 241(a)(4)(C)(ii).
212(a)(3)(C)(ii)	212(a)(3)(C)(iii), 241(a)(4)(C)(ii).
212(a)(3)(C)(iii)	212(a)(3)(C)(iv), 241(a)(4)(C)(ii).
212(a)(3)(D)(i)	212(a)(3)(D)(ii), 212(a)(3)(D)(iii), 212(a)(3)(D)(iv).
212(a)(3)(E)	207(c)(3), 209(c), 210(c)(2)(B)(ii)(III), 212(d)(1), 212(d)(3) [2x], 241(a)(4)(D), 244A(c)(2)(A)(iii)(III), 245(h)(2)(B), 245(i)(1) [added by P.L. 103-322], 245(i)(2) [added by P.L. 103-322], 249, 277; §584(a)(2) of FORPPA-88; §599E(c) of PL 101-167; §101(c)(2) of INTCA94; §2(a)(3)(B) of CSPA.
212(a)(3)(E)(i)	241(a)(4)(D).
212(a)(3)(E)(ii)	241(a)(4)(D).
212(a)(4)	207(c)(3), 209(c), 210(c)(2)(B)(ii)(II), 210(c)(2)(C), 213, 221(g) 1st proviso, 245(h)(2)(A), 245A(d)(2)(B)(ii)(IV), 245A(d)(2)(B)(iii); §599E(c) of PL101-167; §584(a)(2) of FORPAA-88.
212(a)(5)	207(c)(3), 209(c), 210(c)(2)(A), 244A(c)(2)(A)(i), 245A(d)(2)(A); §599E(c) of PL101-167; §584(a)(2) of FORPAA-88; §2(a)(3)(A) of CSPA.
212(a)(5)(A)	203(b)(3)(C), 212(a)(5)(C), 212(k), 241(a)(1)(H)(ii), 245(h)(2)(A); §§122(b), 161(c)(1)(B) of IA'90; §2(a)(3) of PL 101-238.
212(a)(5)(A)(i)	218(g)(3).
212(a)(5)(A)(i)(I)	212(a)(5)(A)(ii).
212(a)(5)(B)	212(a)(5)(C).
212(a)(6)	§518 of PL 100-71; §518 of PL 100-71.
212(a)(6)(C)	§§132(e), 133 of IA'90.
212(a)(6)(C)(i)	210(b)(3)(B)(i), 210(b)(7)(B), 212(a)(6)(C)(ii), 212(i), 241(a)(1)(G), 241(a)(1)(H).
212(a)(6)(E)	101(f)(3).
212(a)(6)(E)(i)	212(a)(6)(E)(iii), 212(d)(11).
212(a)(7)	212(d)(7).

Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
212(a)(7)(A)	207(c)(3), 209(c), 210(c)(2)(A), 211(b), 241(a)(1)(H)(ii), 244A(c)(2)(A)(ii), 245(h)(2)(A), 245A(d)(2)(A); §599E(c) of PL101-167; §584(a)(2) of FORPAA-88; §161(d) of IA'90; §2(a)(3)(A) of CSPA.
212(a)(7)(A)(i)	212(a)(7)(A)(ii), 212(k).
212(a)(7)(B)	212(d)(8).
212(a)(7)(B)(i)	212(a)(7)(B)(ii), 212(a)(7)(B)(iii), 212(a)(7)(B)(iv), 212(d)(4), 212(l)(1).
212(a)(7)(B)(i)(II)	217(a).
212(a)(9)(A)	101(f)(3).
212(a)(9)(C)	212(c).
212(a)(9)(C)(i)	212(a)(9)(C)(ii).
212(a)(9)(C)(ii)	212(a)(9)(C)(i).
212(a)(14) [pre-IA'90]	§101(a)(2) of PL 95-145; §204(c)(3) of Ref; §19(2) of PL 97-116; §2(a)(2) of PL 97-271; §1012(b)(1)(D) of PL 98-164; §§202(a)(2), 314(c) of IRCA; §141(a) of CFA/FSM-MI; §141(a) of CFA/Palau; §314(c) of IA'90; §3(c) of PL 100-658.
212(a)(15) [pre-IA'90]	§101(a)(2) of PL 95-145; §204(c)(3) of Ref; §1012(b)(1)(D) of PL 98-164; §202(a)(2) of IRCA.
212(a)(16) [pre-IA'90]	§202(a)(2) of IRCA.
212(a)(17) [pre-IA'90]	§202(a)(2) of IRCA.
212(a)(19) [pre-IA'90]	§202(a)(2) of IRCA; §133 [2x] of IA'90.
212(a)(20) [pre-IA'90]	§101(a)(2) of PL 95-145; §204(c)(3) of Ref; §2(a)(2) of PL 97-271; §1012(b)(1)(D) of PL 98-164; §202(a)(2) of IRCA; §141(a) of CFA/FSM-MI; §141(a) of CFA/Palau.
212(a)(21) [pre-IA'90]	§101(a)(2) of PL 95-145; §204(c)(3) of Ref; §2(a)(2) of PL 97-271; §1012(b)(1)(D) of PL 98-164; §202(a)(2) of IRCA.
212(a)(23) [pre-IA'90]	§204(c)(3) of Ref.
212(a)(25) [pre-IA'90]	§101(a)(2) of PL 95-145; §204(c)(3) of Ref; §2(a)(2) of PL 97-271; §1012(b)(1)(D) of PL 98-164; §202(a)(2) of IRCA.
212(a)(26) [pre-IA'90]	§141(a) of CFA/FSM-MI; §141(a) of CFA/Palau.
212(a)(27) [pre-IA'90]	§204(c)(3) of Ref.
212(a)(29) [pre-IA'90]	§204(c)(3) of Ref.
212(a)(32) [pre-IA'90]	§101(a)(2) of PL 95-145; §204(c)(3) of Ref; §2(a)(2) of PL 97-271; §202(a)(2) of IRCA.
212(a)(33) [pre-IA'90]	§204(c)(3) of Ref; §901(c) of PL 100-204.
212(d)(3)	252(a).
212(d)(4)	212(a)(7)(B)(ii).
212(d)(4)(C)	245(c)(3).
212(d)(5)	214(f)(2)(A), 252(a), 254(a)(2), 254(a)(3); §101(3)(A) of REAA [8 USC 1522 nt.]; §6(f)(2)(E) of FSA [7 USC 2015(f)(2)(E)]; 3304(a)(14)(A) of IRC; 28 USC 1821(e); §§402(a)(33), 415(f)(3), 1614(a)(1)(B)(i)(II), 1621(f)(2)(C) of SSA [42 USC 602(a)(33), 615(f)(3), 1382c(a)(1)(B)(i)(II), 1382j(f)(2)(C)]; §214(a)(4) of HCDA [42 USC 1436a(a)(4)]; §101(b)(1) of PL 95-145; §5 of PL 95-412; §204(c)(3) of Ref.
212(d)(5)(B)	212(d)(5)(A).
212(d)(9)	§3201(d)(2) of PL 96-70.
212(d)(11)	212(a)(6)(E)(iii).
212(e)	214(k)(2)(A), 214(k)(3), 244(f)(2), 244(f)(3)(B), 245A(a)(2)(C), 248(3); §§132(e), 133(2) of IA'90; §2(a)(3)(A) of PL 102-404.
212(e)(iii)	212(e) 1st proviso, 212(e) 2d proviso, 214(k)(1), 214(k)(3).
212(f)	§702(b) of DOCJSAA-88; §903(b) of PL 100-204.
212(g)	212(a)(1)(B), 241(a)(1)(C)(ii).
212(h)	212(a)(2)(F), 216(f).
212(i)	212(a)(6)(C)(ii), 216(f).
212(j)	101(a)(15)(J).
212(j)(1)(C)	212(j)(1)(D)(ii).
212(j)(1)(E)	212(j)(3).
212(j)(2)	101(a)(15)(H)(i)(b).
212(k)	212(a)(7)(A)(ii).
212(l)	212(a)(7)(B)(iii), 214(a)(1), 245(c)(4), 248(4); §14(c) of PL 99-396.
212(m)	214(e)(5) [2x]; §3(c)(1) of PL 101-238.

Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
212(m)(1)	101(a)(15)(H)(i)(a).
212(m)(2)	101(a)(15)(H)(i)(a).
212(m)(2)(A)	212(m)(2)(C), 212(m)(2)(E)(i).
212(m)(2)(A)(i)	212(m)(2)(A) end [2x].
212(m)(2)(A)(iii)	212(m)(2)(E)(v).
212(m)(2)(A)(iv)	212(m)(2)(A) end.
212(m)(2)(A)(iv)(I)	212(m)(2)(B) [2x], 212(m)(3).
212(m)(2)(A)(iv)(II)	212(m)(3).
212(m)(2)(E)	212(m)(2)(C).
212(m)(2)(E)(iv)	212(m)(2)(E)(iii), 212(m)(2)(E)(v).
212(m)(3)	212(m)(2)(A)(iv)(II); §3(c)(2)(C) of PL 101-238.
212(n)	§303(a)(8) of MATINA.
212(n)	214(e)(5) [2x].
212(n)(1)	101(a)(15)(H)(i)(b), 212(n)(2)(A), 212(n)(2)(D) [2x].
212(n)(1)(A)	212(n)(2)(C).
212(n)(1)(B)	212(n)(2)(C).
212(n)(1)(C)	212(n)(2)(C).
212(n)(1)(D)	212(n)(2)(C).
212(n)(2)(C)	212(n)(2)(B), 212(n)(2)(D).
213	221(g) 1st proviso.
214(a)	218(h)(2), 221(g) 2d proviso.
214(b)	214(e)(2).
214(c)	212(n)(2)(C)(ii), 214(e)(5) [2x], 218(h)(2); §3 of PL 97-271. §3306(c)(1)(B) of IRC; §§3(8)(B)(ii), 3(10)(B)(iii) of MASAWPA [29 USC 1802(8)(B)(ii), 1802(10)(B)(iii)]; §3 of PL 97-271.
214(c)(1)	214(c)(2)(A).
214(c)(2)(B)	§124(d)(4) of IA'90.
214(c)(3)(A)	214(c)(3), 214(c)(6)(A)(i).
214(c)(3)(B)	214(c)(6)(A)(ii).
214(c)(4)(A)	101(a)(15)(P)(i)(a).
214(c)(4)(B)	101(a)(15)(P)(i)(b).
214(c)(4)(B)(i)(I)	214(c)(4)(B)(ii), 214(c)(4)(B)(iv).
214(c)(4)(B)(i)(II)	214(c)(4)(B)(iii)(I), 214(c)(4)(B)(iv).
214(c)(4)(B)(ii)	214(c)(4)(B)(i)(I).
214(c)(4)(B)(iii)	214(c)(4)(B)(i)(II).
214(c)(4)(D)	214(c)(6)(A)(iii).
214(c)(6)	214(c)(3)(A), 214(c)(3)(B).
214(c)(6)(A)	214(c)(6)(B), 214(c)(6)(C), 214(c)(6)(D).
214(c)(8)	§207(c)(2) of MATINA.
214(d)	216(b)(1)(B), 216(d)(1)(A)(ii), 216(g)(1)(B), 245(e)(3).
214(e)	¶6 of Annex 1502.1 of U.S.-Canada Free-Trade Agreement.
214(e)(2)	214(e)(3).
214(e)(3)	214(e)(2) [2x], 214(e)(4).
214(e)(4)	214(e)(2) [2x], 214(e)(3).
214(e)(4)(A)	214(e)(4)(B)(ii), 214(e)(4)(C).
214(e)(4)(B)	214(e)(4)(C).
214(e)(4)(C)	214(e)(4)(D).
214(e)(5)	214(e)(2) [2x].
214(f)	212(d)(5)(A).
214(f)(1)	214(f)(2), 214(f)(3).
214(f)(3)	214(f)(1).
214(g)	§131(c)(1)(G) of IA'90.
214(g)(1)	214(g)(2), 214(g)(3).
214(g)(1)(A)	NAFTA Appendix 1603.D.4, ¶2(c).
214(g)(1)(C)	§3 of PL 102-110.
214(i)(1)	101(a)(15)(H)(i)(b).
214(i)(1)(B)	214(i)(2)(B).
214(i)(2)	101(a)(15)(H)(i)(b), 214(i)(1).
214(j) [added by P.L. 103-322].	101(a)(15)(S).
214(j)(4) [added by P.L. 103-322].	214(j)(5)(E) [added by P.L. 103-322].
214(k)	212(e).
214(k)(1)(C)	214(k)(3).
214(k)(2)	214(k)(1)(B), 214(k)(1)(C).

Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
214(k)(2)(A)	214(k)(2)(B).
215	241(a)(2)(D)(iv).
216	216A(c)(2)(A), 241(a)(1)(D)(i), 245(d) [2x].
216(a)	216(b)(1), 216(c)(1), 216(c)(2)(A), 216(d)(1)(B)(i).
216(a)(1)	216(a)(2)(A).
216(b)(1)	216(b)(2) [2x].
216(b)(2)	216(b)(1).
216(c)(1)	216(a)(2)(A), 216(a)(2)(B) 216(c)(4), 216(c)(4)(B), 216(c)(4)(C).
216(c)(1)(A)	216(c)(2)(A)(i), 216(c)(2)(B), 216(c)(3)(A)(i), 216(d)(1), 216(d)(2)(A), 216(d)(3).
216(c)(1)(B)	216(c)(2)(A)(ii), 216(c)(2)(B), 216(c)(3)(A)(ii), 216(d)(3).
216(c)(2)(A)	216(c)(2)(B).
216(c)(3)(C)	216(c)(3)(D).
216(c)(3)(D)	216(c)(3)(C).
216(c)(4)	241(a)(1)(D)(ii).
216(d)(1)	216(c)(1)(A), 216(c)(1)(B), 216(c)(3)(A), 216(c)(3)(D).
216(d)(2)	216(c)(1)(A).
216(d)(2)(A)	216(a)(2)(B), 216(d)(2)(B), 216(d)(2)(C).
216(d)(2)(B)	216(d)(2)(A), 216(d)(2)(C).
216(d)(3)	216(c)(1)(B).
216(g)(1)	216(a)(1), 216(g)(3).
216(g)(2)	216(a)(1).
216A	241(a)(1)(D)(i), 245(f).
216A(a)	216A(b)(1), 216A(c)(1), 216A(c)(2)(A).
216A(a)(1)	216A(a)(2)(A).
216A(b)(1)(B)(i)	216A(b)(1)(B)(iii).
216A(b)(1)(B)(ii)	216A(b)(1)(B)(iii).
216A(b)(1)	216A(b)(2) [2x].
216A(b)(2)	216A(b)(1).
216A(c)(1)	216A(a)(2)(A), 216A(a)(2)(B).
216A(c)(1)(A)	216A(c)(2)(A)(i), 216A(c)(2)(B), 216A(c)(3)(A)(i), 216A(d)(1), 216A(d)(2)(A), 216A(d)(3).
216A(c)(1)(B)	216A(c)(1)(A)(ii), 216A(c)(2)(B), 216A(c)(3)(A)(ii), 216A(d)(3).
216A(c)(2)(A)	216A(c)(2)(B).
216A(c)(3)(C)	216A(c)(3)(D).
216A(c)(3)(D)	216A(c)(3)(C).
216A(d)(1)	216A(c)(1)(A), 216A(c)(1)(B), 216A(c)(1)(B), 216A(c)(3)(A), 216A(c)(3)(D).
216A(d)(1)(A)	216A(d)(1)(C).
216A(d)(1)(B)	216A(d)(1)(C).
216A(d)(2)	216A(c)(1)(A).
216A(d)(2)(A)	216A(a)(2)(B), 216A(d)(2)(B), 216A(d)(2)(C).
216A(d)(2)(B)	216A(d)(2)(A), 216A(d)(2)(C).
216A(d)(3)	216A(c)(1)(B), 216A(c)(2)(A)(ii).
216A(f)(1)	216A(a)(1).
216A(f)(2)	216A(a)(1).
217	212(a)(7)(B)(iv), 214(a)(1), 245(c)(4), 248(4); §405(a) of IRCA.
217(a)(1)(A)	217(e)(1)(A).
217(a)(4)	217(e)(1).
217(b)(1)	217(c)(4).
217(c)	217(a)(2)(B), 217(g)(4).
217(c)(2)	217(c)(1), 217(c)(4).
217(c)(3)	217(c)(4).
217(e)(1)	217(e)(2).
217(e)	217(a)(1).
217(g)	217(a)(2)(B).
217(g)(2)	217(g)(1).
217(g)(4)	217(c)(2).
218	214(c)(1); §§301(d), 301(e), 301(f) of IRCA.
218(a)	218(b).
218(a)(1)	218(c)(3)(A), 218(e)(1).
218(a)(1)(A)	218(c)(2)(A).
218(b)(2)	218(d)(3)(A), 218(d)(3)(B)(i), 218(d)(3)(B)(ii).
218(b)(2)(A)	218(b)(2)(B).
218(c)(3)(B)(i)	218(c)(3)(B)(ii). 218(c)(3)(B)(iii) [2x], 218(c)(3)(B)(iv), 218(c)(3)(B)(vi), 218(c)(3)(B)(vii)(I)–(II).

<i>Section in INA referred to</i>	<i>Section (in INA unless otherwise specified) referring to provision on left</i>
218(c)(3)(B)(iv)	218(c)(3)(B)(v).
218(c)(3)(B)(vii)(I)	218(c)(3)(B)(vii)(II).
218(i)(2)	218(a)(1).
221	224.
221(b)	261, 262(a)(2), 262(b)(2).
221(c)	§584(a)(3) of FORPAA-88; §154(a)(1) of IA'90.
221(e)	240(a).
222	221(a)(1).
223	282(a).
223(a)(1)	223(b)(1).
223(a)(2)	223(b)(1).
231	280(a).
231(a)	231(d), 231(e).
231(b)	231(d), 231(e).
234	236(d); §1079 of PL 102-484.
235	205, 209(a)(1), 236(a) [2x], 273(d).
235(c)	235(b), 236(b) [2x].
236	106(b), 205, 209(a)(1), 273(d); 18 USC 4113(c).
236(b)	236(c).
236(d)	236(c).
236(e)(2)	236(e)(3).
237	209(a)(1), 280(a).
237(a)	212(d)(7).
237(a)(1)	237(a)(2).
237(b)	243(e).
237(e)	212(a)(9)(B).
238	271(a).
238(b)	286(a).
238(c)	212(d)(4).
239	231(a), 231(b), 280(a).
[Chapter 5 of Title II]	266(b), 266(c), 291; 50 USC 855(b).
241	242(b); §8(c) of Foreign Agents Registration Act of 1938, as amended [22 USC 618(c)]; §9 of Peace Corps Act [22 USC 2508]; §401(b) of IRCA.
241(a)	242A(d)(4).
241(a)(1)	241(c); §202(n)(1)-(2) of SSA [42 USC 402(n)].
241(a)(1)(A)	241(c); §301(a)(1) [2x] of IA'90.
241(a)(1)(B)	241(c), 241(a)(1)(G); §301(a)(1) of IA'90.
241(a)(1)(C)	241(c); §301(a)(1) of IA'90; §202(n)(1)-(2) of SSA [42 USC 401(n)].
241(a)(1)(D)	241(c); §121(b)(2) of IA'90.
241(a)(1)(D)(i)	241(a)(1)(D)(ii).
241(a)(1)(E)	242(e); §202(n)(1)-(2) of SSA [42 USC 401(n)].
241(a)(1)(E)(i)	241(a)(1)(E)(ii), 241(a)(1)(E)(iii).
241(a)(1)(G)	244(a)(3).
241(a)(2)	241(c), 242(b), 242(e), 244(a)(2), 244(e)(1); §301(a) of IA'90.
241(a)(2)(A)	242A(d)(1), 242A(d)(2)(B).
241(a)(2)(A)(i)	241(a)(2)(A)(iv).
241(a)(2)(A)(ii)	241(a)(2)(A)(iv).
241(a)(2)(A)(iii)	241(a)(2)(A)(iv), 242A(b)(1).
241(a)(3)	241(c), 242(b), 242(e), 244(a)(2), 244(e)(1); §301(a) of IA'90.
241(a)(3)(A)	241(c); §301(a)(1) of IA'90.
241(a)(4)	241(b), 242(b), 242(e), 244(a)(2), 244(e)(1).
241(a)(4)(C)(i)	241(a)(4)(C)(ii).
241(a)(4)(D)	241(a)(1)(H), 243(h)(1), 244(a).
241(a)(15)* [pre IA'90].	§602(c) of IA'90.
241(a)(16)* [pre-IA'90].	§602(c) of IA'90.
241(a)(17)* [pre-IA'90].	§602(c) of IA'90.
241(a)(18)* [pre-IA'90].	§602(c) of IA'90.
241(a)(19)* [pre-IA'90].	§202(n)(1)-(2) of SSA [42 USC 402(n)(1)-(2)].
241(c)	§5(d) of PL 99-639.

Section in INA referred to

Section (in INA unless otherwise specified) referring to provision on left

242	214(d) , 242A(a)(1) , 242A(d)(4) , 242B(a)(1) , 242B(a)(1)(F)(i) , 242B(a)(2) , 242B(a)(3)(B) , 242B(b)(1) , 242B(b)(2) , 242B(c)(1) , 242B(e)(1) , 245A(a)(1)(B) , 252(b) , 280(b)(2) , 287(f)(1) ; 18 USC 4113(b) ; §8(c) of Foreign Agents Registration Act of 1938, as amended [22 USC 618(c)]; §9 of Peace Corps Act [22 USC 2508].
242(a)(1)	242(a)(2)(A) .
242(a)(2)	242(a)(1) , 242A(a)(2) .
242(a)(2)(B)	242(a)(2)(A) .
242(a)(3)(A)	280(b)(1)(B) ; §130002(a) of PL 103-322 .
242(b)	106(a) , 212(a)(6)(B)(iv) , 242(a)(1) , 242A(b)(1) , 242A(d)(2)(D)(ii) ; 18 USC 4113(a) ; 28 USC 1821(e) .
242(b)(1)	242B(c)(1) , 242B(c)(2)(A) , 242B(e)(5)(A) .
242(c)	106(a)(8) , 242(a)(2)(A) , 242(d) , 242(g) .
242(d)	106(a)(7) [2x] , 106(a)(8) , 242(a)(2)(A) , 242(g) .
242(e)	106(a)(7) [2x] , 106(a)(8) , 242(f) [2x] .
242(i)	§225 of INTCA94; §130007(a) of PL 103-322 .
242(j)	§20301(c) of PL 103-322 .
242(j)(1)	242(j)(4)(A) .
242(j)(1)(A)	242(j)(2) .
242(j)(5)	§20301(c) of PL 103-322 .
242A	106(a) .
242A(a)	§510(b)(4)(A) of IA'90.
242A(b)	106(d)(1) .
242A(b)(1)	242A(b)(3) .
242A(b)(2)	106(d)(1)(B) , 242A(b)(1) .
242A(b)(4)	106(d)(1)(D) .
242A(b)(4)(C)	242A(b)(4)(A) .
242A(d)	242(b) ; §512 of IA'90; §130007(a) of PL 103-322 .
242A(d)(1)	242A(d)(2)(D)(ii) .
242A(d)(3)(A)(iii)	242A(d)(3)(A)(ii) .
242B	242(b) , 242A(d)(2)(B) ; §303(d)(2) of IA'90.
242B(a)(1)(E)	242(b)(2) end .
242B(a)(1)(F)	242B(a)(2) , 242B(a)(4) , 242B(c)(1) , 242B(c)(2) .
242B(a)(2)	242B(c)(1) , 242B(c)(3)(B) , 242B(e)(1) .
242B(a)(4)	§545(g)(1)(B) of IA'90.
242B(b)(1)	242B(a)(3)(B) .
242B(b)(2)	242B(a)(1)(E) , 242B(a)(3)(B) .
242B(c)	242B(a)(2)(A)(ii) , 242B(a)(2)(B)(ii) .
242B(c)(1)	242B(c)(2) .
242B(c)(2)	242B(a)(1)(F)(iii) .
242B(c)(3)(A)	242B(c)(3) end .
242B(c)(3)(B)	242B(c)(3) end .
242B(d)(4)(A)	242B(e)(4)(B) .
242B(e)(2)(A)	242B(e)(2)(B) [2x] .
242B(e)(2)(B)	242B(e)(2)(A) .
242B(e)(3)(A)	242B(e)(3)(B) [2x] .
242B(e)(3)(B)	242B(e)(3)(A) .
242B(e)(4)(A)	242B(e)(4)(B) , 242B(e)(4)(B)(ii) .
242B(e)(4)(B)	242B(e)(4)(A) .
242B(e)(4)(B)(i)	242B(e)(4)(B)(ii) .
242B(e)(5)	242B(e)(1) , 242B(e)(2)(A) , 242B(e)(3)(A) , 242B(e)(4)(A) .
242B(f)(2)	242B(c)(3)(A) , 242B(e)(1) .
243	214(d) , 280(a) ; §8(c) of Foreign Agents Registration Act of 1938, as amended [22 USC 618(c)]; §9 of Peace Corps Act [22 USC 2508].
243(a)	243(b) .
243(e)	243(f) .
243(g)	236(e)(2) ; §315(c) of PL 99-603 ; §315(c) of IRCA; §702(b) of DOCJSAA-88; §903(b) of PL 100-204 .
243(h)	§6(f)(2)(F) of FSA [7 USC 2015(f)(2)(F)]; §214(a)(5) of HCDA [42 USC 1436a(a)(5)].
243(h)(1)	243(h)(2) .
243(h)(2)	244A(c)(2)(B)(ii) ; §202(a)(3) of IRCA; §301(e)(2) of IA'90.
243(h)(2)(B)	243(h)(2) end .
243(h)(2)(A)-(D)	316(f) .

Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
244	242B(e)(5)(B) .
244(a)	201(b)(1)(D) , 244(c) , 244(f) , 244A(e) ; §304(c)(1)(B) of MATINA.
244(a)(1)	244(b)(1) , 244(b)(2) .
244(a)(2)	244(a)(1) , 244(a)(3) , 244(b)(1) , 244(b)(2) , 244(e)(1) .
244(b)(2)	§304(c)(1)(B) of MATINA.
244(a)(3)	244(g) .
244(e)	18 USC 4113(a).
244(e)(1)	242B(e)(2)(A) , 244(e)(2) .
244(e)(2)	244(e)(1) .
244A	§§303(b)(1) , 303(c)(1) of IA'90; §304(c)(2)(B) of MATINA.
244A(a)(1)	244A(a)(4)(A) [2x], 244A(a)(4)(B) [2x].
244A(a)(2)	§303(c)(3) of IA'90.
244A(b)	244A(a)(1) , 244A(a)(3)(B) , 244A(a)(3)(C) ; §§303(a)(1) , 303(d)(1) of IA'90.
244A(b)(1)	244A(b)(2) [2x], 244A(b)(3)(B) , 244A(b)(3)(C) , 244A(b)(5)(B) , 244A(c)(1)(A) , 244A(i)(1)(C) ; §303(c)(2) of IA'90.
244A(b)(2)	§303(c)(2) of IA'90.
244A(b)(3)	244A(i)(1)(C) ; §303(c)(2) of IA'90.
244A(b)(3)(A)	244A(b)(3)(B) , 244A(b)(3)(C) .
244A(b)(3)(B)	244A(b)(2)(B) , 244A(d)(3) .
244A(b)(3)(C)	244A(b)(3)(A) , 244A(b)(3)(B) .
244A(c)	244A(a)(1) .
244A(c)(1)	§§303(b)(1) , 303(c)(2) of IA'90.
244A(c)(1)(A)(i)	244A(c)(4)(A) .
244A(c)(1)(A)(ii)	244A(c)(4)(B) .
244A(c)(1)(A)(iii)	244A(c)(2)(A) , 244A(c)(2)(A)(ii) .
244A(c)(1)(A)(iv)	244A(a)(4)(A) , 244A(c)(1)(B) .
244A(c)(2)(A)	244A(c)(1)(A)(iii) ; §303(b)(1)(B) of IA'90.
244A(c)(2)(A)(iii)	244A(c)(2)(A)(ii) ; §304(c)(1)(A)(ii) of MATINA.
244A(c)(2)(B)	244A(c)(1)(A)(iii) ; §303(b)(1)(B) of IA'90.
244A(c)(3)	244A(c)(1)(A) ; §303(b)(1) of IA'90.
244A(c)(3)(B)	244A(c)(4)(A) .
244A(c)(3)(C)	§303(c)(3) of IA'90.
244A(c)(4)	244A(c)(3)(B) ; §303(c)(2) of IA'90.
244A(c)(4)(A)	244A(c)(4)(B) .
244A(d)(2)	§303(c)(3) of IA'90.
244A(d)(3)	244A(b)(3)(B) , 244A(d)(2) [2x]; §303(c)(2) of IA'90.
244A(f)(3)	244A(c)(3)(B) ; §303(c)(4) of IA'90.
244A(g)	§302(c) of IA'90.
244A(h)	§303(c)(1) of IA'90.
244A(h)(1)	244A(h)(2) [2x], 244A(h)(3) , 244A(h)(3)(A) .
244A(h)(2)	244A(h)(1) , 244A(h)(3) .
244A(i)	§303(c)(2) of IA'90.
245	210(b)(2)(B) , 242B(e)(5)(C) , 244A(f)(4) , 245A(c)(2)(B) , 246(a) ; §2(a) , (b) of PL 101-238; §§2(a) , 2(d)(3)(A)(ii) of CSPA.
245(a)	245(b) , 245(c) , 245(d) , 245(e)(1) , 245(g) , 245(h)(1) , 245(i) [added by PL 103-307].
245(a)	245(b) , 245(e)(1) , 245(f) , 245(g) .
245(c)	245(i)(1) [added by PL 103-307], 245(i)(1)(B) [added by PL 103-307]; F. of PL 89-732; §2(a)(5) of CSPA.
245(c)(2)	§2(b) of PL 101-238.
245(e)(1)	245(e)(3) .
245(e)(2)	204(g) , 245(e)(1) .
245(e)(3)	204(g) , 245(e)(1) .
245(h)(2)(B)	245(h) end.
245(i) [added by PL 103-322].	241(a)(2)(A)(i)(I) .
245(i)(1) [added by PL 103-307].	245(i)(3) [added by PL 103-307].
245(i)(2) [added by PL 103-307].	245(i)(3) [added by PL 103-307].
245(i)(1) [added by P.L. 103-322].	245(i)(3) [added by P.L. 103-322].
245(i)(2) [added by P.L. 103-322].	245(i)(3) [added by P.L. 103-322].

Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
245A	201(b)(1)(C), 212(o)(2), 212(o)(2)(A), 245(i)(1) [added by PL 103-307], 245(i)(1)(i) [added by PL 103-307]; §7003(a)(7) of Elementary and Secondary Education Act of 1965 (PL 89-10) [20 USC 3283(a)(7)]; §6039E(d) of IRC; §402(f)(2) of SSA [42 USC 602(f)(2)]; §214(a)(6) of HCDA [42 USC 1436a(a)(6)]; §§204(c)(1)(D)(i), 204(j)(4), 304(j)(2), 404(a) of IRCA; §§112(c)(2), 301(b)(2)(B) of IA'90; §109 of INTCA94.
245A(a)	245A(b)(1), 245A(b)(2), 245A(b)(3), 245A(c)(1), 245A(c)(7)(A), 245A(e)(1), 245A(e)(2), 245A(h)(1) [2x]; §204(c)(1)(B) of IRCA; §902(b) of DOCJSAA-88; §902(b) of PL 100-204.
245A(a)	§204(b)(5) proviso of IRCA.
245A(a)(1)	274B(a)(3)(B).
245A(a)(1)(A)	245A(a)(1)(B), 245A(e)(1), 245A(i); §204(a)(2)(B) of IRCA.
245A(a)(1)(B)	245A(a)(1)(A).
245A(a)(3)(A)	245A(a)(3)(B).
245A(a)(4)	§902(a)(5) of PL 100-204.
245A(a)(4)(A)	245A(d)(2); §902(a)(5) of DOCJSAA-88.
245A(b)	§902(b) of DOCJSAA-88; §902(b) of PL 100-204.
245A(b)(1)	245A(b)(2)(C), 245A(b)(3)(A), 245A(c)(7)(A) [2x].
245A(b)(1)(A)	245A(c)(7)(A).
245A(b)(1)(B)(i)	245A(b)(1)(B)(ii).
245A(b)(1)(C)(i)	245A(d)(2).
245A(b)(1)(D)(i)	245A(b)(1)(D)(ii); §§204(b)(5) proviso & 204(c)(3)(D) of IRCA.
245A(b)(1)(D)(i)(I)	245A(b)(1)(D)(iii).
245A(b)(2)(B)	245A(d)(2).
245A(b)(3)(A)	245A(b)(1)(B)(ii).
245A(c)(1)(B)	245A(c)(3).
245A(c)(2)	245A(c)(1).
245A(c)(6)	245A(c)(5)(A); §902(b) of DOCJSAA-88; §902(b) of PL 100-204.
245A(d)	§902(b) of DOCJSAA-88; §902(b) of PL 100-204.
245A(d)(2)	245A(a)(4)(A) 245(b)(1)(C)(i), 245A(b)(2)(B)(i).
245A(d)(2)(B)(i)	245A(d)(2)(B)(ii).
245A(d)(2)(B)(ii)	245A(d)(2)(B)(i).
245A(d)(2)(B)(ii)(IV)	245A(d)(2)(B)(ii) ls.
245A(f)	§902(b) of DOCJSAA-88; §902(b) of PL 100-204.
245A(f)(1)	245A(f)(3)(A).
245A(g)	§902(b) of DOCJSAA-88; §902(b) of PL 100-204.
245A(g)(1)(A)	245A(g)(2).
245A(g)(2)(A)	245A(g)(2)(C).
245A(g)(2)(D)(i)	245A(g)(2)(D)(ii).
245A(h)	§§402(f)(1), 402(f)(2), 472(a) of SSA [42 U.S.C. 602(f)(1), 602(f)(2), 672(a)]; §204(c)(1)(A) of IRCA; §902(b) of DOCJSAA-88; §902(b) of PL 100-204; §301(d) of IA'90.
245A(h)(1)	210(f) [2x], 245A(h)(2), 245A(h)(3)(A)(i)-(ii), 245A(h)(3)(B)(i).
245A(h)(1)(A)	245A(h)(1)(B); §204(a)(2)(A) of IRCA.
245A(h)(1)(A)(i)	245A(h)(4).
245A(h)(1)(A)(ii)	245A(h)(1)(B).
245A(h)(2)	245A(h)(1)(A), 245A(h)(1)(B), 245A(h)(3)(B)(ii); §204(a)(2)(A) of IRCA.
245A(h)(3)	210(f) [2x], 245A(h)(1)(A), 245A(h)(1)(B); §204(a)(2)(A) of IRCA.
245A(h)(3)(A)	245A(h)(3)(B)(i).
245A(h)(3)(B)	245A(h)(3)(A).
245A(h)(3)(B)(i)	245A(h)(3)(B)(ii).
245A(i)	§902(b) of DOCJSAA-88; §902(b) of PL 100-204.
246(a)	246(b).
247(a)	247(b).
247(b)	214(b); §6(a)(1) of MSSA [50A USC 456(a)(1)].
248	214(a)(1), 214(h), 221(g) 2d proviso, 238(c), 241(a)(1)(C)(i), 242(j)(3)(B)(iii), 242B(e)(5)(C), 244A(f)(4).
248(2)	214(k)(2)(A), 248(3).
249	201(b)(1)(E), 242B(e)(5)(C), 246(a); §6(f)(2)(C) of FSA [7 USC 2015(f)(2)(C)]; §214(a)(2) of HCDA[42 USC 1436a(a)(2)]; §203(c) of IRCA.
249	333(b)(1).

Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
251	258(c)(2)(B), 258(d)(4)(B), 280(a).
251(a)	251(d).
251(b)	251(d).
251(c)	251(d).
252	243(c), 254(a)(2), 254(a)(3).
252(a)	252(c), 253.
252(a)(1)	252(b).
252(b)	214(f)(2)(B), 252(a).
253	252(a), 254(a)(2), 254(a)(3), 280(a).
254	280(a).
254(a)	271(a).
255	253, 280(a).
256	280(a); 22 USC 450(c).
258	251(d).
258(a)	101(a)(15)(D)(i), 258(c)(1), 258(d)(1).
258(b)	258(a).
258(b)(2)	258(b)(1).
258(c)	258(a), 258(d)(5)(B); §323(c)(2) of PL 103-206.
258(c)(1)	258(c)(2), 258(c)(4)(A) [2x], 258(c)(4)(B)(i), 258(c)(4)(B)(iii), 258(c)(4)(C)(ii) [3x], 258(c)(4)(E)(ii) [2x], 258(c)(4)(F).
258(c)(1)(B)	258(c)(1) end.
258(c)(1)(B)(i)	258(c)(1) end, 258(c)(4)(B)(i), 258(c)(4)(B)(iii).
258(c)(3)	258(d)(5)(A).
258(c)(4)	258(c)(2).
258(c)(4)(A)-(D)	258(d)(4).
258(c)(4)(A)-(E)	258(d)(5)(A).
258(c)(4)(B)	258(c)(4)(D).
258(c)(4)(B)(i)	258(c)(4)(E)(ii).
258(c)(4)(D)	258(c)(4)(C)(i) [2x], 258(c)(4)(C)(ii) [2x].
258(c)(4)(E)	258(c)(4)(D).
258(d)	258(a).
258(d)(1)	258(c)(4)(A) [2x], 258(d)(2)(A).
258(d)(1)(A)	258(d)(1)(B), 258(d)(2)(A), 258(d)(2)(B).
258(d)(1)(B)	258(d)(2)(A), 258(d)(2)(B).
258(d)(1)(D)(i)	258(d)(1)(A)(i).
258(d)(1)(D)(ii)	258(d)(1)(A).
258(d)(1)(D)(iii)	258(d)(1)(A).
258(d)(2)	258(d)(1).
258(d)(3)(A)(iii)(III) ...	258(d)(3)(B).
258(d)(3)(A)(iii)(IV) ...	258(d)(3)(B).
258(d)(5)	258(c)(5).
258(d)(5)(B)	258(d)(5)(A).
258(e)	258(a).
261	263(a), 264(a).
262	263(a), 263(b), 264(a).
262(a)	262(c).
262(b)	262(c).
264(d)	264(e).
265	241(a)(3)(A), 266(b) [2x].
266(c)	241(a)(3)(B)(i).
271	280(a), 286(h)(1)(B).
271(a)	271(c)(1), 271(c)(2)(A), 271(c)(2)(B).
271(c)(1)	271(c)(2)(A), 271(c)(2)(B) [2x].
271(c)(2)(A)	271(c)(2)(B).
272	280(a).
273	280(a), 286(h)(1)(B).
273(b)	221(i).
273(d)	235(b).
273(e)	273(c).
274	10 USC 374(b)(4)(A)(ii).
274(a)	274(b)(1), 274(b)(2).
274(h)(1)	218(i)(1).
274A	218(h)(1), 274B(g)(2)(B)(v), 274B(g)(2)(B)(vi), 274B(k)(1), 274B(k)(2)(A)(i); 10 USC 374(a)(2); 46 USC 8704; §§101(b)(2), 101(e), 304(j)(1), 402 of IRCA.
274A(a)	274A(e)(1)(A), 274A(e)(1)(C), 274A(c)(1)(D), 274A(e)(3)(A), 274A(e)(3)(C), 274A(i)(2).

Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
274A(a)(1)	274A(a)(2); §§103(a)(6), 501(b) of MASAWPA [29 USC 1813(a)(6), 1851(b)]; §101(a)(3)(A) of IRCA.
274A(a)(1)(A)	274A(a)(3), 274A(a)(4), 274A(e)(4), 274A(f)(1), 274A(f)(2), 274A(i)(3)(B)(iii).
274A(a)(1)(B)	274A(a)(5), 274A(b), 274A(e)(5).
274A(a)(2)	274A(e)(4), 274A(f)(1), 274A(f)(2); §§103(a)(6), 501(b) of MASAWPA [29 USC 1813(a)(6), 1851(b)]; §101(a)(3)(B) of IRCA.
274A(a)(3)	274A(a)(5), 274A(b).
274A(b)	274A(a)(1)(B)(i) & (ii), 274A(a)(3), 274A(a)(5) [2x], 274A(d)(1)(A), 274A(d)(1)(B) [2x], 274A(d)(4)(A), 274A(e)(4)(B)(i), 274B(a)(6), 274B(g)(2)(B)(i), 274C(a)(4); §402(1) of IRCA; 18 USC 1546(b); 5 USC 1546(b).
274A(b)(1)	274A(b)(2), 274A(b)(3); §5(a), (b), (d) of PL 101-238.
274A(b)(1)(B)	274A(b)(1)(A)(i).
274A(b)(1)(C)	274A(b)(1)(A)(ii).
274A(b)(1)(C)(i)	274A(d)(3)(D)(iii).
274A(b)(1)(D)	274A(b)(1)(A)(ii).
274A(b)(1)(D)(i)	274A(b)(1)(D)(ii).
274A(b)(2)	274A(b)(3).
274A(b)(3)	274A(a)(5).
274A(b)(5)	274B(g)(2)(B)(ii).
274A(d)	274A(e)(4)(B)(i); §402(2) of IRCA.
274A(d)(1)	274A(d)(2), 274A(d)(3)(A).
274A(d)(2)	274A(d)(1)(B), 274A(d)(4)(A).
274A(d)(3)	274A(d)(1)(B).
274A(d)(3)(A)	274A(d)(3)(B).
274A(d)(3)(D)	274A(d)(3)(A), 274A(d)(3)(C)(i).
274A(d)(3)(D)(i)	274A(d)(3)(A)(iii).
274A(d)(3)(D)(ii)	274A(d)(3)(A)(iii).
274A(d)(3)(D)(iii)	274A(d)(3)(A)(ii), 274A(d)(3)(E).
274A(d)(4)	274A(d)(1)(B); §402(2) of IRCA.
274A(e)	274A(g)(2).
274A(e)(4)	274A(e)(3)(A), 274A(e)(3)(C).
274A(e)(5)	274A(e)(3)(A), 274A(e)(3)(C).
274A(e)(6)	274A(e)(3)(A), 274A(e)(3)(C).
274A(g)(1)	274A(e)(1)(A), 274A(e)(1)(C), 274A(e)(1)(D), 274A(e)(3)(A), 274A(e)(3)(C), 274A(e)(6), 274A(g)(2).
274A(g)(2)	274A(e)(6).
274A(h)(3)	218(i)(1), 274A(a)(1)(A), 274A(a)(4), 274B(a)(1).
274A(i)	§5(f)(3) of PL 100-239.
274A(i)(2)	274A(i)(3)(B)(iii).
274A(i)(3)(B)	274A(i)(3)(A).
274A(i)(3)(B)(i)	274A(i)(3)(B)(ii)-(iii).
274A(i)(3)(B)(ii)	274A(i)(3)(B)(i).
274A(i)(3)(C)(i)	274A(i)(3)(A).
274A(j)	274A(l)(1), 274B(k)(2).
274A(j)(1)	274A(k)(1).
274A(k)	274A(j)(1).
274A(k)(2)	274A(k)(3).
274A(l)	274A(m), 274A(n)(1), 274A(n)(2)(A), 274A(n)(3)(A), 274B(k)(1)-(2).
274A(l)(1)(B)	274A(l)(2).
274A(m)	274B(k)(2).
274A(n)	274A(l)(2), 274B(k)(2).
274A(n)(1)	274A(n)(3)(A).
274A(n)(3)	274A(n)(2).
274A(n)(3)(A)	274A(n)(3)(B).
274A(n)(4)	274A(n)(2).
274B	10 USC 374(a)(2).
274B(a)(1)	274B(a)(2), 274B(a)(3) 274B(a)(6).
274B(a)(1)(A)	274B(b)(2).
274B(a)(3)	274B(a)(1)(B).
274B(a)(6)	274B(g)(2)(B)(iv)(IV).
274B(b)(2)	274B(b)(1).
274B(c)	274B(b)(1).

Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
274B(d)	274B(a)(5).
274B(d)(3)	274B(d)(1), 274B(d)(2).
274B(e)(1)	274B(d)(3).
274B(g)	274B(a)(5).
274B(g)(2)(B)(i)	274B(g)(2)(B)(ii).
274B(g)(2)(B)(iii)	274B(g)(2)(C).
274B(g)(2)(B)(iv)(II) ..	274B(g)(2)(B)(iv)(I).
274B(g)(2)(B)(iv)(III) ..	274B(g)(2)(B)(iv)(I) & (II).
274B(g)(2)(B)(iv)(VI) ..	274B(g)(2)(B)(iv)(I)–(III).
274B(i)	274B(g)(1), 274B(j)(4).
274B(i)(1)	274B(j)(1), 274B(j)(3).
274B(j)(1)	274B(c)(2).
274B(k)(2)(B)	274B(k)(2) end.
274C	212(a)(6)(F), 241(a)(3)(C).
274C(a)	274C(d)(2)(A), 274C(d)(3).
274C(d)(3)	274C(d)(2)(A), 274C(d)(2)(C).
275	279; 10 USC 374(b)(4)(A)(ii).
276	279; 10 USC 374(b)(4)(A)(ii).
276(a)	276(b).
276(b)	276(a).
277	10 USC 374(b)(4)(A)(ii).
278	241(a)(2)(D)(iv); 10 USC 374(b)(4)(A)(ii).
281	286(c).
[§1353a of title 8, USC.	5 USC 5549(2)].
[§1353b of title 8, USC.	5 USC 5549(2)].
286(a)	286(c).
286(b)	286(c).
286(d)	286(e)(1), 286(e)(2), 286(f)(1)(A), 286(f)(1)(B), 286(f)(2)(B), 286(f)(3), 286(g), 286(h)(1)(A).
286(f)(1)	286(f)(3).
286(f)(2)	286(f)(3).
286(h)	286(l).
286(h)(2)(A)	286(h)(2)(B) [4x].
286(m)	245(i)(3) [added by PL 103-307], 286(p), 344(c).
286(n)	245(i)(3) [added by PL 103-307], 286(p), 344(c).
286(o)	245(i)(3) [added by PL 103-307], 286(p), 344(c).
286(p)	344(c).
286(q)(1)	286(q)(5)(B).
287(a)(3)	286(e).
287(a)(5)(B)	287(a) end [2x].
287(b)	236(a).
287(f)(2)	264(b).
292	242A.
Title III	101(c), 101(c)(1), 216(e), 216A(e), 245A(b)(1)(D)(iii), 405(b); §3 of A. of 10/24/68.
301	308; §506(b) of PL 94-241.
301(b)	324(d)(1); §101(b) of INTCA94.
301(c)	309(a), 341(a).
301(d)	309(a), 341(a).
301(e)	309(a), 341(a).
301(g)	308(4)end, 309(a), 309(b), 341(a); A. of 3/16/56 [8 USC 1401a].
301(b)*	§877(d), 2107(d), 2501(a)(3)(A) of IRC.
301(h)	§101(b) of INTCA94.
303	341(a).
308	§506(b) of PL 94-241.
308(2)	309(a).
309(a)	309(c); §23(e)(4) [2x] of PL 100-525.
310(a)	310(b)(3)(B); §506(c) of PL 94-241; §408(a)(1) of IA'90.
310(b)	324(c)(2), 327(a), 337(a), 337(c).
310(b)(1)	310(b)(2)(A).
310(b)(1)(B)	310(b)(1)(A), 310(b)(2)(A)(ii)(I), 310(b)(2)(B) [2x], 310(b)(3)(A).
310(b)(2)(A)(ii)	339(a)(1).

Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
310(b)(3)(A)(i)	310(b)(1)(B), 310(b)(2)(B)(i), 310(b)(3)(C).
310(b)(3)(B)	310(b)(2)(B)(ii).
310(b)(3)(C)	310(b)(3)(B).
310(b)(5)	310(b)(1)(A), 310(b)(1)(B).
312	§7003(a)(7) of Elementary and Secondary Education Act of 1965 (PL 89-10) [20 USC 3283(a)(7)]; §204(j)(4) of IRCA; PL 103-333 [108 Stat. 2558].
312(a)	245A(b)(1)(D)(i)(I), 245A(b)(1)(D)(iii), 312(b)(1).
312(a)(1)	312(b)(2).
312(a)(2)*	312(b)(3).
312(b)(3)	§109(d) of INTCA94.
313	316(f)(1), 324(c)(1), 324(d)(1), 340(c).
313(a)	313(d).
313(a)(3)	§103(c)(7) of PL 103-199.
313(a)(5)	313(a)(6).
313(c)	313(d).
315(c)	315(a).
316(a)	316(c), 316(e), 317, 327(a), 328(d), 328(e), 330, 334(a).
316(a)(1)	319(a).
316(b)	316(c) [2x].
318	328(b)(2), 329(b)(1), 330(b).
319(a)	334(a).
319(c)	§506 of PL 101-193; §506 of PL 101-193.
319(d)	329A(e).
320	101(c)(1).
320(a)	320(b).
321	101(c)(1).
321(a)	321(b).
321(a)(1)	321(a)(5).
321(a)(2)	321(a)(5).
321(a)(3)	321(a)(5).
322	101(c)(1), 337(a).
322(a)	322(c).
324(a)	101(a)(27)(B), 324(b), 338.
324(c)(1)	324(d)(2).
324(c)(2)	324(d)(2).
324(c)(3)	324(d)(2).
324(d)(1)	324(d)(2).
327	101(a)(27)(B).
327(a)	327(b), 327(b)(1).
327(b)	327(a).
328	318.
328(a)	328(b), 328(c).
329	318; §4 of A. 6/30/50 [8 USC 1440 nt]; §3 of A. 10/24/68; §§405(a)(1)(C), 405(a)(2) of IA'90.
329(a)	329(b), 329A(b)(1); §4 of A. 6/30/50 [8 USC 1440 nt].
329(a)(1)	329A(b)(3); §405(a)(1) of IA'90.
329(a)(2)	329A(b)(3); §405(a)(1) of IA'90.
329(c)	340(d).
329A(a)	329A(b).
329A(b)	329A(a), 329A(c).
329A(b)(1)	329A(b) ls, 329A(c)(2).
329A(b)(2)	329A(b) ls, 329A(c)(2).
329A(b)(3)	329A(c)(3).
329A(c)	329A(a).
330(a)	330 end.
330(b)	330 end.
331	329(b)(1).
332(b)	346.
334	312(1), 312(b)(2), 312(b)(3); §13(b)(3)(B) of PL 98-306 [20 USC 955b(b)(3)(B)]; 42 USC 1881(c)(2)(A).
334(b)	§2(c)(2)(A) of PL 86-209 [42 USC 1801(c)(2)(A)].
334(e)	334(d).
335	336(a), 336(b).
335(b)	§113(a)(1)(A) of PL 102-395.
335(b)	§113(a)(1)(B) of PL 102-395.

Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
336	335(b).
336(a)	310(c), 316(b), 334(c), 335(b).
336(b)	336(d).
336(d)	18 USC 1429.
337	324(c)(1), 324(d)(1), 327(a), 339(a).
337(a)	310(b)(1)(A), 310(b)(1)(B), 310(b)(2)(A)(ii)(I), 310(b)(2)(B)(i), 310(b)(3)(C), 316(f)(2), 322(b), 336(e), 337(b), 339(a)(1).
337(a)(1)–(4)	337(a) [2x].
337(a)(1)–(5)	337(a).
337(a)(5)(B)	337(a).
337(a)(5)(C)	337(a) [2x].
337(c)	310(b)(1).
340	246(b), 329(c).
340(a)	340(b), 340(d).
340(c)	340(d).
340(d)	340(e).
341(b)	§16(c) of PL 99–396.
344(a)(1)	344(f)(1).
344(f)(1)	344(f)(2).
[Chapter 3 of Title III].	358.
349(a)(2)	§144(a) of CFA/FSM–MI; §144(a) of CFA/Palau.
349(a)(3)	351(b).
349(a)(4)	§144(a) of CFA/FSM–MI; §144(a) of CFA/Palau.
349(a)(5)	351(b).
349(a)(6)	351(a).
349(a)(7)	351(a).
350*	§877(d), 2107(d), 2501(a)(3)(A) of IRC.
355*	§877(d), 2107(d), 2501(a)(3)(A) of IRC.
360	358.
360(a)	106(a)(5), 106(a)(7).
360(b)	360(c).
401(k)	407.
404(b)(1)	404(b)(2)(A), 404(b)(2)(C).
404(b)(2)	404(b)(1).
404(b)(2)(A)	404(b)(2)(C), 404(b)(2)(D).
404(b)(2)(A)(i)	404(b)(2)(A) ls.
404(b)(2)(A)(ii)	§610(b) of PL 102–140.
404(b)(2)(A)(iii)	§610(b) of PL 102–140.
404(b)(2)(B)	404(b)(2)(A).
405	309(b).
405(b)	313(a), 315(a), 318.
Chapter 2 of Title IV	404(a); §204(e) of Ref.; §501(a)(1) of REAA [8 USC 1522 nt.]; §584(c) of FORPAA–88.
412(a)(1)(B)(ii)	412(c)(1)(C).
412(a)(7)	413(b)(3).
412(a)(8)	413(b)(8).
412(b)	412(a)(7), 412(e)(2)(C)(i), 412(e)(6); §§5(e)(1)(A), 5(f)(2)(A) of PL 99–605.
412(b)(1)	412(a)(2)(A), 412(a)(2)(D), 412(a)(4)(B), 412(b)(6), 412(b)(7), 412(b)(7)(A), 412(b)(7)(E) [2x], 412(b)(7)(E)(v), 412(b)(8) [2x], 412(e)(8).
412(b)(1)(A)	412(b)(1)(B).
412(b)(1)(B)	412(b)(1)(A)(ii).
412(b)(4)(B)	412(b)(4)(D), 412(b)(7)(C).
412(b)(5)	412(a)(4)(B)(i).
412(b)(7)	412(b)(8)(F); §5(d)(1) of PL 99–605.
412(b)(7)(B)(i)	412(b)(7)(E)(iv); §5(d)(1) of PL 99–605.
412(b)(7)(C)	412(b)(7)(E)(iv); §5(d)(1) of PL 99–605.
412(b)(7)(D)	§§5(d)(1), 5(d)(2), 5(f)(1) of PL 99–605.
412(b)(7)(E)	412(b)(7) ls.
412(c)	412(e)(2)(A)(ii); §§5(e)(1)(D), 7(b) of PL 99–605.
412(c)(1)	412(a)(4)(B)(ii)
412(c)(1)(A)	412(c)(1)(B).
412(c)(1)(A)(i)	412(e)(2)(A)(i).
412(c)(2)	412(a)(4)(B)(iii).

Section in INA referred to	Section (in INA unless otherwise specified) referring to provision on left
412(d)(2)	412(a)(4)(B)(iv).
412(d)(2)(A)	412(d)(2)(B)(i).
412(d)(2)(B)	412(d)(2)(A).
412(d)(2)(B)(ii)	412(d)(2)(B)(iii).
412(e)	412(a)(3), 412(b)(7)(E)(ii); §§502(1)(C), 505(b)(1), 505(b)(2) of PL 97-300 [29 USC 1791a(1)(C), 1791d(b)(1), 1791d(b)(2)]; §1611(c)(5)(C) of SSA [42 USC 1382(c)(5)(C)].
412(e)(1)	412(e)(5); §313(c) of Ref; §313(b) & (c) of PL 96-212.
412(e)(2)	412(a)(1)(A)(iii).
412(e)(2)(A)(ii)	412(e)(2)(C)(iii).
412(e)(5)	413(b)(6); §1928(a)(4) of SSA [42 USC 1396s(a)(4)].
412(f)(1)	412(f)(3), 412(f)(5).
412(f)(2)	412(f)(3), 412(f)(5).
414	§501(a)(1) of REAA [8 USC 1522 nt].
414(a)	412(e)(7)(D); §401(a) of Ref.
414(a)(2)*	§501(a)(1) of REAA [8 USC 1522 nt].
414(b)	412(b)(3).

C. LIST OF RECENT LEGISLATION (1979–1994) AMENDING THE IMMIGRATION AND NATIONALITY ACT OR OTHERWISE AFFECTING ALIENS

[Prepared by Congressional Research Service, Library of Congress, and updated from 1992–1994 with assistance of Office of the Legislative Counsel, House of Representatives]

LEGISLATION AMENDING THE IMMIGRATION AND NATIONALITY ACT OR OTHERWISE AFFECTING ALIENS, 1979–1994

The following list of legislation amending the Immigration and Nationality Act (INA) or otherwise affecting aliens is organized by the Congress in which the legislation was enacted. The period 1979–1994 covers the 96th Congress through the end of the 2nd session of the 103rd Congress. Within each Congress, the legislation is generally grouped in three principal categories: legislation amending the Immigration and Nationality Act (INA), the Immigration Reform and Control Act (IRCA), or the Immigration Act of 1990 (IMMACT⁹⁰); legislation affecting the INA, IRCA, and Immigration and Naturalization Service (INS) operations; and legislation regulating alien participation in Federal assistance programs and other Federal activities. The legislation is listed in order of enactment within each category, with a number of the acts cited in more than one category.

I. 96th CONGRESS, 1979–1980

A. Legislation Amending the INA

1. *P.L. 96-70*, the Panama Canal Act of 1979 (September 27, 1979; 93 Stat. 452), amended sections 101(a)(27) and 212 of the INA to allow for the admission of a limited number of aliens from the Panama Canal Zone (93 Stat. 496).

2. *P.L. 96-212*, the Refugee Act of 1980 (March 17, 1980; 94 Stat. 102), amended the INA to provide for the admission and resettlement of refugees.

3. *P.L. 96-538*, the Health Programs Extension Act of 1980 (December 17, 1980; 94 Stat. 3183), amended section 212(j)(2)(A) of the INA to extend until December 31, 1981 the period during which certain entry requirements for nonimmigrant foreign medical graduates could be waived (94 Stat. 3192).

B. Legislation Affecting the INA, INS Operations, or Refugees

1. *P.L. 96-8*, the Taiwan Relations Act (April 10, 1979; 93 Stat. 14), provided that, “for purposes of the Immigration and Nationality Act, Taiwan may be treated in the manner specified in the first sentence of section 202(b) of that Act” (93 Stat. 16), meaning that it may be entitled to the independent country limit of 20,000 immigrant visas annually, separate from China. This provision was interpreted as requiring affirmative action by the State Department, and was subsequently enacted in a different form in *P.L. 97-113*.

2. *P.L. 96-60*, the Department of State Authorization Act, Fiscal Years 1980 and 1981 (August 15, 1979; 93 Stat. 395), included a modification of the 1977 “McGovern amendment,” relating to the exclusion of aliens under section 212(a)(28) of the INA on the grounds of affiliation with proscribed organizations (93 Stat. 397).

3. *P.L. 96-68*, the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1980 (September 24, 1979; 93 Stat. 416), appropriated \$318,465,000 for INS for FY 1980 (93 Stat. 420).

4. *P.L. 96-110* (November 13, 1979; 93 Stat. 843) amended the Indochina Migration and Refugee Assistance Act of 1975 to extend the authority for assistance to Indochinese refugees through FY 1981, retroactive to the beginning of FY 1980. The 1975 Act was repealed by section 312(c) of *P.L. 96-212*, the Refugee Act of 1980.

5. *P.L. 96-132*, the Department of Justice Appropriation Authorization Act, Fiscal Year 1980 (November 30, 1979; 93 Stat. 1040), required an independent comprehensive management analysis of INS (93 Stat. 1047); and authorized increased appropriations for the Select Commission on Immigration and Refugee Policy and extended its reporting date from September 30, 1980 to March 1, 1981 (93 Stat. 1051).

6. *P.L. 96-422*, the Refugee Education Assistance Act of 1980 (October 10, 1980; 94 Stat. 1799), contained in title V the legislative authority for appropriations for resettlement assistance for Cuban and Haitian entrants. The remaining titles authorized education-related assistance for entrants and refugees.

7. *P.L. 96-536*, the Further Continuing Appropriations Resolution, 1981 (December 16, 1980; 94 Stat. 3166), appropriated \$351,000,000 for INS for FY 1981 (94

Stat. 3169). (P.L. 96-536 was initially in effect through June 5, 1981, and was extended through the end of FY 1981 by P.L. 97-12 (June 5, 1981; 95 Stat. 14, 95)).

C. Legislation Regulating Alien Participation in Federal Assistance Programs and Other Federal Activities

1. P.L. 96-68, the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1980 (September 24, 1979; 93 Stat. 416), prohibited the use of Legal Service Corporation funds for undocumented aliens during FY 1980 (93 Stat. 433).

2. P.L. 96-74, the Treasury, Postal Service, and General Government Appropriations Act, 1980 (September 29, 1980; 93 Stat. 559), contained a Government-wide ban against the employment during FY 1980 of noncitizens of the United States with specified exceptions (93 Stat. 574).

3. P.L. 96-84 (October 10, 1979; 93 Stat. 653) amended section 3306(c)(1) of the Internal Revenue Code to extend until January 1, 1982 the period during which employers are not required to pay Federal unemployment tax on wages of temporary alien farmworkers admitted under sections 101(a)(15)(H) and 214(c) of the INA (93 Stat. 654).

4. P.L. 96-123, the Further Continuing Appropriations Resolution, 1980 (November 20, 1979; 93 Stat. 923), prohibited the use of Department of Labor funds for undocumented aliens during FY 1980 (93 Stat. 925).

5. P.L. 96-249, the Food Stamp Act Amendments of 1980 (May 26, 1980; 94 Stat. 357), included amendments relating to the resources of ineligible aliens (94 Stat. 361) and requiring the reporting of illegal aliens (94 Stat. 362).

6. P.L. 96-265, the Social Security Disability Amendments of 1980 (June 9, 1980; 94 Stat. 441), included amendments to title XVI of the Social Security Act providing that permanent resident aliens who apply for Supplemental Security Income (SSI) for the Aged, Blind and Disabled benefits will be deemed to have a portion of the resources of their immigration sponsors available for their support for 3 years after their entry (94 Stat. 471).

7. P.L. 96-399, the Housing and Community Development Act of 1980 (October 8, 1980; 94 Stat. 1614), prohibited financial assistance to nonimmigrant students (94 Stat. 1637).

8. P.L. 96-438, the Consolidated Farm and Rural Development Act Amendments (October 13, 1980; 94 Stat. 1871), permitted permanent resident aliens to be eligible for loans (94 Stat. 1872).

9. P.L. 96-536, the Further Continuing Appropriations Resolution, 1981 (December 16, 1980; 94 Stat. 3166), continued in effect for FY 1981 the prohibitions against the use of Legal Services Corporation and Labor Department funds for undocumented aliens, and the Government-wide ban against employment of non-citizens with specified exceptions (94 Stat. 3169; 94 Stat. 3166). (P.L. 96-536 was initially in effect through June 5, 1981, and was extended through the end of FY 1981 by P.L. 97-12 (June 5, 1981; 95 Stat. 14, 95)).

II. 97th CONGRESS, 1981-1982

A. Legislation Amending the INA

1. P.L. 97-116, the Immigration and Nationality Act Amendments of 1981 (December 29, 1981; 95 Stat. 1611), popularly referred to as the INS Efficiency Act, consisted of a series of generally technical and noncontroversial amendments to the INA.

2. P.L. 97-359 (October 22, 1982; 96 Stat. 1716) amended the INA by the addition of a new section 204(g) providing preferential treatment in the admission of certain Amerasian children.

3. P.L. 97-363, the Refugee Assistance Amendments of 1982 (October 25, 1982; 96 Stat. 1734), authorized appropriations for refugee assistance activities under title IV of the INA for FY 1983, with some modifications.

B. Legislation Affecting the INA, INS Operations, or Refugees

1. P.L. 97-35, the Omnibus Budget Reconciliation Act of 1981 (August 13, 1981; 95 Stat. 357) included the "Consolidated Refugee Education Assistance Act" (95 Stat. 458) which, among other things, extensively amended titles I-IV of P.L. 96-422, the Refugee Education Assistance Act of 1980.

2. P.L. 97-86, the Department of Defense Authorization Act, 1982 (December 1, 1981; 95 Stat. 1099), amended the U.S. Code (10 U.S.C. 374(a)(2)) to authorize military cooperation with civilian law enforcement officials, and specifically with the Attorney General regarding sections 274-278 of the INA (95 Stat. 1115).

3. P.L. 97-92, the Further Continuing Appropriations Resolution, 1982 (December 15, 1981; 95 Stat. 1183) extended through September 30, 1982 by P.L. 97-161

(March 31, 1982; 96 Stat. 22), appropriated \$428,557,000 for INS for FY 1982 (95 Stat. 1191). The Attorney General was also instructed to limit to 525 the number of aliens detained at Krome North in Florida (95 Stat. 1198).

4. *P.L. 97-113*, the International Security and Development Cooperation Act of 1981 (December 29, 1981; 95 Stat. 1519), required that Taiwan be considered as a separate foreign state for the purpose of the 20,000 per-country limit under the INA (95 Stat. 1549); required cooperation in halting illegal emigration as a condition for assistance to Haiti (95 Stat. 1551); and expressed the sense of the Congress that El Salvadorans should be considered for extended voluntary departure on a case-by-case basis (95 Stat. 1557).

5. *P.L. 97-241*, the Department of State Authorization Act, FY 1982 and 1983 (August 24, 1982; 96 Stat. 273), required the President to report on the total costs of assistance to refugees and Cuban and Haitian entrants (96 Stat. 297).

6. *P.L. 97-271*, the Virgin Islands Nonimmigrant Alien Adjustment Act of 1982 (September 30, 1982; 96 Stat. 1157), authorized the granting of permanent resident status to certain "H-2" nonimmigrant aliens and their families residing in the U.S. Virgin Islands.

7. *P.L. 97-300*, the Job Training Partnership Act (October 13, 1982; 96 Stat. 1322), amended the Wagner-Peyser Act of 1933 to require payment for services of the Labor Department's U.S. Employment Service not authorized by the Act (96 Stat. 1395). INA-authorized alien certification was cited as such an activity in the Senate report.

8. *P.L. 97-377*, the Further Continuing Appropriations Resolution, 1983 (December 21, 1982; 96 Stat. 1830), appropriated \$484,431,000 for INS for FY 1983 (96 Stat. 1873).

9. *H. Res. 304*, expressing the sense of the House that the President should halt deportation proceedings involving Poles until the political situation in Poland stabilized, passed the House on December 15, 1981.

C. Legislation Regulating Alien Participation in Federal Assistance Programs and Other Federal Activities

1. *P.L. 97-35*, the Omnibus Budget Reconciliation Act of 1981 (August 13, 1981; 95 Stat. 357), included amendments to the Housing and Community Development Act of 1980 prohibiting financial assistance to nonimmigrants or undocumented aliens (95 Stat. 408); and included legislative eligibility requirements for alien participation in the Aid to Families with Dependent Children (AFDC) program authorized by title IV-A of the Social Security Act, and provided that immigrants who apply for AFDC benefits will be deemed to have a portion of the resources of their immigration sponsors available for their support for 3 years after their entry (95 Stat. 857).

2. *P.L. 97-92*, the Further Continuing Appropriations Resolution, 1982 (December 15, 1981; 95 Stat. 1183) extended by *P.L. 97-161* (March 31, 1982; 96 Stat. 22), continued in effect during FY 1982 the prohibition against the use of Legal Services Corporation and Labor Department funds for undocumented aliens, and the Government-wide ban against the employment of noncitizens with specified exceptions (95 Stat. 1190; 95 Stat. 1183).

3. *P.L. 97-98*, the Agriculture and Food Act of 1981 (December 22, 1981; 95 Stat. 1213), amended the Food Stamp Act to provide that immigrants who apply for food stamps will be deemed to have a portion of the resources of their immigration sponsors available for their support for 3 years after their entry (95 Stat. 1283).

4. *P.L. 97-248*, the Tax Equity and Fiscal Responsibility Act of 1982 (September 3, 1982; 96 Stat. 324), included an amendment to section 3306(c)(1) of the Internal Revenue Code extending until January 1, 1984 the period during which employers are not required to pay Federal unemployment tax on wages of temporary alien farmworkers admitted under sections 101(a)(15)(H) and 214(c) of the INA (96 Stat. 559).

5. *P.L. 97-276*, the Continuing Appropriations Resolution, 1983 (October 2, 1982; 96 Stat. 1186), continued in effect through December 17, 1982 the restriction against the use of Labor Department funds for undocumented aliens (96 Stat. 1187). The restriction was not extended beyond this date.

6. *P.L. 97-377*, the Further Continuing Appropriations Resolution, 1983 (December 21, 1982; 96 Stat. 1830), prohibited the use of Legal Services Corporation funds during FY 1983 for most aliens not admitted for permanent residence (96 Stat. 1874), and continued in effect the Government-wide ban against the employment of noncitizens with specified exceptions (96 Stat. 1830).

E. Other Related Legislation

1. *P.L. 97-123*, (December 29, 1981; 95 Stat. 1659) amended section 208(g) of the Social Security Act to prohibit altering or counterfeiting of social security cards or traffic in such cards, and to increase the penalties for misuse of social security numbers to not more than a \$5,000 fine and/or 5 years imprisonment (95 Stat. 1663).

2. *P.L. 97-241*, the Department of State Authorization Act, FY 1982 and 1983 (August 24, 1982; 96 Stat. 273), included provisions providing for U.S. passport fees and increasing passport validity to up to 10 years, and relating to citizenship documentation (96 Stat. 279).

3. *P.L. 97-398*, the False Identification Crime Control Act of 1982 (December 31, 1982; 96 Stat. 2009), included provisions prohibiting the production, transfer, or possession of counterfeit or stolen identification documents.

4. *P.L. 97-470*, the Migrant and Seasonal Agricultural Worker Protection Act (January 14, 1983; 96 Stat. 2583), which superseded and repealed the Farm Labor Contractor Registration Act (FLCRA), included a provision prohibiting farm labor contractors from using the services of aliens unauthorized to work in the United States with penalties for violation similar to those in FLCRA (96 Stat. 2589; 96 Stat. 2596).

*III. 98th CONGRESS, 1983-1984**A. Legislation Amending the INA*

1. *P.L. 98-164*, the Department of State Authorization Act, FY 1984 and 1985 (November 22, 1983; 97 Stat. 1017), deleted section 412(b)(1)(B) of the INA, a reporting requirement relating to refugees which had met (97 Stat. 1061).

2. *P.L. 98-454* (October 5, 1984; 98 Stat. 1732) amended sections 212 and 214 of the INA, authorizing a nonimmigrant visa waiver for aliens entering Guam as visitors for up to 15 days, provided Guam had an adequate arrival and departure control system (98 Stat. 1737). The provision was amended by *P.L. 99-396*.

3. *P.L. 98-473*, the Continuing Appropriations Resolution, 1985 (October 12, 1984; 98 Stat. 1837), included crime-related technical amendments to sections 212(a)(9) and 242(h) of the INA (98 Stat. 2028); and amended section 412(e) of the INA to require the implementation of alternative resettlement assistance projects to encourage refugee self-sufficiency (98 Stat. 1877).

4. *Private Law 98-47* (October 30, 1984) amended section 101(a)(9) of the INA to repeal the visa issuance authority of Governors of the Canal Zone and other U.S. possessions.

B. Legislation Affecting the INA and INS Operations

1. *P.L. 98-151*, the Continuing Appropriations Resolution, 1984 (November 14, 1983; 97 Stat. 964), authorized and appropriated funds for refugee and Cuban/Haitian entrant assistance (97 Stat. 964); and required cooperation in halting illegal emigration as a condition for assistance to Haiti (97 Stat. 971).

2. *P.L. 98-164*, the Department of State Authorization Act, FY 1984 and 1985 (November 22, 1983; 97 Stat. 1017), expressed the sense of the Congress that certain Salvadorans should be granted extended voluntary departure (97 Stat. 1062).

3. *P.L. 98-166*, the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations Act, 1984 (November 28, 1983; 97 Stat. 1071), appropriated \$501,257,000 for INS (97 Stat. 1083).

4. *P.L. 98-411*, the Departments of State, Justice and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1985 (August 30, 1984), appropriated \$576,417,000 for INS (98 Stat. 1556). It also appropriated \$5 million to reimburse States for incarcerated Mariel Cubans (98 Stat. 1558).

5. *P.L. 98-473*, the Continuing Appropriations Resolution, 1985 (October 12, 1984; 98 Stat. 1837), contained an amendment to 18 U.S.C. 3142(d) relating to the detention of certain aliens (98 Stat. 1978); and required cooperation in halting illegal emigration as a condition for assistance to Haiti (98 Stat. 1903).

6. *Private Law 98-53* (October 30, 1984) permitted immigrants employed by the American University of Beirut to return to the United States upon completion of such employment.

C. Legislation Regulating Alien Participation in Federal Assistance Programs and Other Federal Activities

1. *P.L. 98-21*, the Social Security Amendments of 1983 (April 20, 1983; 97 Stat. 65), restricted the eligibility of certain nonresident aliens seeking security benefits as dependents or survivors of insured workers (97 Stat. 134); made half of social security benefits received by nonresident aliens taxable (97 Stat. 82); made nonresident aliens ineligible for a tax credit for the elderly and the permanently and

totally disabled (97 Stat. 87); and required the printing of social security cards on counterfeit-resistant banknote paper (97 Stat. 137).

2. *P.L. 98-116*, the Military Construction Appropriations Act, 1984 (October 11, 1983; 97 Stat. 795), prohibited the use of funds for illegal aliens (97 Stat. 799).

3. *P.L. 98-135*, the Federal Supplemental Compensation Amendments of 1983 (October 24, 1983; 97 Stat. 857), amended section 3306(c)(1) of the Internal Revenue Code to extend until January 1, 1986 the period during which employers are not required to pay Federal unemployment tax on the wages of temporary alien farmworkers admitted under sections 101(a)(15)(H) and 214(c) of the INA (97 Stat. 860).

4. *P.L. 98-151*, the Further Continuing Appropriations Resolution, 1984 (November 14, 1983; 97 Stat. 964), appropriated \$30 million for the education of "immigrant" children, including undocumented aliens (97 Stat. 973); and continued in effect the Government-wide ban against the employment of noncitizens with specified exceptions (97 Stat. 982).

5. *P.L. 98-166*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1984 (November 28, 1983; 97 Stat. 1071), prohibited the use of Legal Service Corporation funds during FY 1984 for most aliens not admitted for lawful permanent residence (97 Stat. 1090).

6. *P.L. 98-181*, the Supplemental Appropriations Act, 1984 (November 30, 1983; 97 Stat. 1153), included a 1-year suspension of section 214 of the Housing and Community Development Act of 1980 prohibiting financial assistance to nonimmigrants or undocumented aliens (97 Stat. 1239).

7. *P.L. 98-369*, the Deficit Reduction Act of 1984 (July 18, 1984; 98 Stat. 494), amended the Internal Revenue Code to include a statutory definition of resident and nonresident aliens (98 Stat. 672).

8. *P.L. 98-411*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1985 (August 30, 1984; 98 Stat. 1545), prohibited the use of Legal Services Corporation funds during FY 1985 for most aliens not admitted for lawful permanent residence (98 Stat. 1563).

9. *P.L. 98-473*, the Continuing Appropriations Resolution, 1985 (October 12, 1984; 98 Stat. 1837), authorized and appropriated funds for refugee and Cuban/Haitian assistance and for emergency immigrant education, continued the Government-wide ban against employment of noncitizens with specified exceptions (98 Stat. 1963); and continued the ban against the use of military construction funds for illegal aliens (98 Stat. 1881).

10. *P.L. 98-511*, the Education Amendments of 1984 (October 19, 1984; 98 Stat. 2366), included in title VI, the "Emergency Immigrant Education Act of 1984", a 5 year authorization, 1985-1989, of assistance for local education agencies for alien children enrolled in elementary or secondary schools (98 Stat. 2401).

IV. 99th CONGRESS, 1985-1986

A. Legislation Amending the INA

1. *P.L. 99-169*, the Intelligence Authorization Act (December 4, 1985; 99 Stat. 1002), amended section 316 of the INA to facilitate naturalization of certain foreign intelligence sources (99 Stat. 1007).

2. *P.L. 99-396* (August 27, 1986; 100 Stat. 837) amended section 212(1) of the INA relating to a waiver of the nonimmigrant visa requirement for Guam (100 Stat. 842); and sections 308 and 341 of the INA relating to U.S. non-citizen national status (100 Stat. 842, 843).

3. *P.L. 99-500*, the Continuing Appropriations Resolution, 1987 (October 18, 1986), amended section 286 of the INA to require immigration inspection fees.

4. *P.L. 99-505* (October 21, 1986), amended section 101(A)(15)(D) of the INA to permit alien crewmen on U.S.-based fishing vessels to stop temporarily at ports in Guam.

5. *P.L. 99-570*, the Anti-Drug Abuse Act of 1986 (October 27, 1986) amended sections 212(a)(23) and 241(a)(11) of the INA to broaden the excludability and deportability of alien drug offenders; and section 287 of the INA relating to INS custody of illegal alien drug offenders.

6. *P.L. 99-603*, the Immigration Reform and Control Act of 1986 (November 6, 1986), amended the INA to provide for employer sanctions, legalization, and agricultural worker programs, among other things.

7. *P.L. 99-605*, the Refugee Assistance Extension Act of 1986 (November 6, 1986), amended title IV of the INA to authorize appropriations for refugee assistance through FY 1988, and to amend the terms under which it is provided.

8. *P.L. 99-639*, the Immigration Marriage Fraud Amendments of 1986 (November 10, 1986), consisted of a series of amendments to the INA intended to deter immigration-related marriage fraud.

9. *P.L. 99-653*, the Immigration and Nationality Act Amendments of 1986 (November 14, 1986), consisted of a series of amendments to the INA popularly referred to as the State Department consular efficiency amendments.

B. Legislation Affecting the INA and INS Operations

1. *P.L. 99-180*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1986 (December 13, 1985; 99 Stat. 1136), appropriated \$593,800,000 for FY 1986 (99 Stat. 1144). Additionally, it appropriated \$5 million to reimburse State for incarcerated Cubans (99 Stat. 1146), and \$7.1 million for a facility to incarcerate illegal alien felons (99 Stat. 1145).

2. *P.L. 99-190*, the Further Continuing Appropriations Resolution, 1986 (December 19, 1985; 99 Stat. 1185), authorized and appropriated funds for refugee and Cuban/Haitian assistance (99 Stat. 1315).

3. *P.L. 99-328* (May 28, 1986; 100 Stat. 505) allowed qualified persons representing all of the States to be naturalized on Ellis Island on July 3 or 4, 1986.

4. *P.L. 99-353* (July 2, 1986; 100 Stat. 755) designated July 4, 1986 as "National Immigrants Day".

5. *P.L. 99-500*, the Continuing Appropriations Resolution, 1987 (October 18, 1986) appropriated \$593,000,000 for INS, appropriated \$5 million to reimburse States for incarcerated Cubans, and authorized and appropriated funds for refugee and Cuban/Haitian assistance.

6. *P.L. 99-570*, the Anti-Drug Abuse Act of 1986 (October 27, 1986), required INS to establish a four-city pilot program to improve INS and police computer capabilities to respond to drug-related inquiries (section 1751); required a comprehensive information system to facilitate visa denial to drug traffickers (section 2011); and required Defense Department cooperation with INS (sections 1601 and 3057).

7. *P.L. 99-603*, the Immigration Reform and Control Act of 1986 (November 6, 1986) includes a number of provisions which either amend laws other than the INA (e.g., requirements for verification of immigration status for aliens applying for certain benefits), or are freestanding (e.g., section 204, State legalization impact-assistance grants).

8. *H. Res. 314* (November 12, 1985), expressed the sense of the House that the President should investigate the Miroslav Medvid case to prevent a similar mishandling of a political asylum case.

9. *H. Res. 409* (May 20, 1986) expressed the sense of the House that the Attorney General should investigate Kurt Waldheim's World War II activities to determine whether he should be denied admission to the United States.

10. *S. Con. Res. 143* expressed the sense of the Congress on the resumption of the U.N. High Commissioner for Refugees Orderly Departure Program for Vietnam.

11. *S. Res. 185* (July 10, 1985) expressed the sense of the Senate that the Cuban Government was thwarting Cubans' human rights by suspending the U.S.-Cuban immigration agreement in retaliation for U.S. broadcasting to Cuba.

12. *S. Res. 353* (March 13, 1986) expressed the sense of the Senate that the Commission on Security and Cooperation in Europe should investigate the Medvid defection attempt.

C. Legislation Regulating Alien Participation in Federal Assistance Programs and Other Federal Activities

1. *P.L. 99-173*, the Military Construction Appropriations Act, 1986 (December 10, 1985; 99 Stat. 1024), continued the ban against the use of funds for illegal aliens (99 Stat. 1028).

2. *P.L. 99-180*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1986 (December 13, 1985; 99 Stat. 1136), continued the prohibition against the use of Legal Services Corporation funds for most aliens not admitted for permanent residence (99 Stat. 1163).

3. *P.L. 99-190*, the Continuing Appropriations Resolution, 1986 (December 19, 1985; 99 Stat. 1185) continued the Government-wide ban against employment of noncitizens with specified exceptions (99 Stat. 1291).

4. *P.L. 99-272*, the Consolidated Omnibus Budget Reconciliation Act of 1985 (April 7, 1986; 100 Stat. 82), amended section 3306(c)(1) of the Internal Revenue Code to extend until January 1, 1988 the period during which employers are not required to pay Federal unemployment tax on wages of temporary alien farmworkers admitted under sections 101(a)(15) and 214(c) of the INA (100 Stat. 327).

5. *P.L. 99-498*, the Higher Education Amendments of 1986 (October 17, 1986), limited eligibility for Federal student aid programs to aliens who are or are intending to become permanent resident aliens, and required a study of the denial of student aid to certain noncitizens.

6. *P.L. 99-500*, the Continuing Appropriations Resolution, 1987 (October 18, 1986), continued the prohibition against the use of Legal Services Corporation funds for most aliens not admitted for permanent residence, continued the ban against the use of military construction funds for illegal aliens, continued the Government-wide ban against employment of non-citizens with specified exceptions, and prohibited implementation of HUD regulations prohibiting unlawful aliens receiving housing assistance.

7. *P.L. 99-509*, the Omnibus Budget Reconciliation Act of 1986 (October 21, 1986), amended section 1903 of the Social Security Act to restrict Medicaid eligibility to aliens lawfully admitted for permanent residence or permanently residing in the United States under color of law, except in the case of otherwise qualified aliens who have an emergency medical condition (section 9406).

8. *P.L. 99-514*, the Tax Reform Act of 1986 (October 22, 1986), added a new section 6039E to the Internal Revenue Code requiring aliens applying for permanent resident status to provide certain information, including whether they are required to file a tax return for the 3 most recent taxable years (section 1234).

9. *P.L. 99-595* (October 31, 1986) amended section 3306(c)(1) of the Internal Revenue Code to extend until January 1, 1993 the period during which employers are not required to pay Federal unemployment tax on wages of temporary alien agricultural workers admitted under sections 101(a)(15)(H) and 214(c) of the INA.

V. 100th CONGRESS, 1987-1988

A. Legislation Amending the INA OR IRCA

1. *P.L. 100-71*, the Supplemental Appropriations Act, FY87 (July 11, 1987; 101 Stat. 391) amended section 286(h)(1)(A) of the INA to permit INS travel fee funds to remain available until expended (101 Stat. 394).

2. *P.L. 100-202*, the Further Continuing Appropriations Act, FY88 (December 22, 1987; 101 Stat. 1329), amended section 210(d) of the INA as amended by IRCA, relating to special agricultural worker applications (101 Stat. 1329-18).

3. *P.L. 100-203*, the Omnibus Budget Reconciliation Act of 1987 (December 22, 1987; 101 Stat. 1330) made a technical correction to section 201(b)(2)(B) of IRCA (101 Stat. 1330-321).

4. *P.L. 100-204*, the Foreign Relations Authorization Act, FY88-89 (December 22, 1987; 101 Stat. 1331), amended section 212(a)(23) of the INA relating to the exclusion of drug law violators (101 Stat. 1399).

5. *P.L. 100-205*, the United States-Canada Free-Trade Agreement Implementation Act of 1988 (September 28, 1988; 102 Stat. 1851), amended section 214 of the INA concerning entry as nonimmigrants of Canadian citizen professionals (102 Stat. 1877).

6. *P.L. 100-459*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, FY89 (October 1, 1988; 102 Stat. 2186), amended sections 286 and 344 of the INA to create revolving "Immigration Examinations Fee Account" (102 Stat. 2203); and amended section 101(b)(2) of the INA, relating to the adoption of illegitimate children of American fathers, to expire October 1, 1989 (102 Stat. 2203).

7. *P.L. 100-525*, the Immigration Technical Corrections Act of 1988 (October 24, 1988), consisted of miscellaneous amendments to the INA and IRCA, and other immigration-related provisions.

8. *P.L. 100-658*, the Immigration Amendments of 1988 (November 15, 1988), amended section 314 of IRCA (NP-5 program), which made more visas available to countries disadvantaged by the repeal of the national origins quota system, by extending it to FY89 and FY90 and increasing the annual number of visas available from 5,000 to 15,000.

9. *P.L. 100-690*, the Anti-Drug Abuse Act of 1988 (November 18, 1988), amended the INA in Title VII, Subtitle J—Provisions Relating to the Deportation of Aliens Who Commit Aggravated Felonies (sections 7341-7350).

B. Legislation Affecting the INA, INS Operations, or Refugees

1. *P.L. 100-71*, the Supplemental Appropriations Act, FY87, included a FY87 appropriation for INS of \$137,216,000 (101 Stat. 393 and 472); struck INS preinspection limitation of section 208(a) of *P.L. 99-500* and *P.L. 99-591* (101 Stat. 472); and required the President to add AIDS virus infection (HIV) to dangerous contagious diseases for the purposes of section 212(a)(6) of the INA (101 Stat. 475).

2. *P.L. 100-202*, the Further Continuing Appropriations Act, FY88, included FY88 appropriations of \$741,114,000 for INS within the Justice Department (101 Stat. 1329-12); \$346,933,000 for the Office of Refugee Resettlement within HHS (101 Stat. 1329-271); and \$870,000 for the Commission for the Study of International Migration and Cooperative Economic Development created by IRCA (101 Stat. 1329-

31). Included provisions relating to Amerasian immigration (101 Stat. 1329-183), and prohibiting the implementation of proposed INS H-1 regulations (101 Stat. 1329-17); as well as provisions similar to those in P.L. 100-204 relating to Cuban political prisoners (101 Stat. 1329-39); Indochinese refugee resettlement (101 Stat. 1329-40), and legalization of status of certain aliens previously granted extended voluntary departure (EVD) (101 Stat. 1329-43).

3. *P.L. 100-204*, the Foreign Relations Authorization Act, FY88-FY89, included the Moynihan-Frank amendment, a temporary prohibition against the exclusion or deportation of aliens on certain political and ideological grounds (101 Stat. 1399); as well as provisions relating to the legalization of status of certain aliens previously granted EVD (101 Stat. 1400), Cuban political prisoners (101 Stat. 1401), and Indochinese resettlement (101 Stat. 1402). Also authorized funds for migration and refugee assistance for FY88-89 (101 Stat. 1337); required study and report concerning the status of individuals with diplomatic immunity in the United States (101 Stat. 1345); and required report on visa information system on drug traffickers (101 Stat. 1397).

4. *P.L. 100-239*, the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (January 11, 1988; 101 Stat. 1778), added a new section 8704 to title 46, U.S. Code deeming certain individuals employed on fishing vessels as employed in the United States for the purposes of the employer sanctions provisions of section 274A of the INA (101 Stat. 1781).

5. *P.L. 100-242*, the Housing and Community Development Act of 1987 (February 5, 1988; 101 Stat. 1815), amended section 214 of the Housing and Community Development Act of 1980 to revise SAVE verification and enforcement procedures added by section 121(a)(2) of IRCA, and the provision for reimbursement added by section 121(b)(6) of IRCA (101 Stat. 1861).

6. *P.L. 100-393*, the Disaster Emergency Supplemental Appropriations Act, FY88 (August 14, 1988; 102 Stat. 969), included an appropriation of \$24 million for the U.S. Emergency Migration and Refugee Assistance Fund authorized by section 2(c) of the Migration and Refugee Assistance Act of 1962, of which not less than \$6 million was to be made available for Soviet and other Eastern European refugees (102 Stat. 973).

7. *P.L. 100-435*, the Hunger Prevention Act of 1988 (September 19, 1988), made a technical redesignation of the provision of the Food Stamp Act authorizing appropriations for administration of SAVE program, as added by section 121(b)(5) of IRCA (101 Stat. 1662).

8. *P.L. 100-436*, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, FY89 (September 20, 1988; 102 Stat. 1680), included an appropriation of \$382,356,000 for HHS's Office of Refugee Resettlement (ORR) (102 Stat. 1696, 1716).

9. *P.L. 100-449*, the United States-Canada Free-Trade Agreement Implementation Act of 1988, provided for reciprocal treatment of Canadian citizens as non-immigrant treaty traders under section 101(a)(15)(E) of the INA (102 Stat. 1876).

10. *P.L. 100-459*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, FY89, included an appropriation for INS of \$800 million plus any unused user fees from the immigration legalization program (102 Stat. 2196); and appropriations of \$500,000 for the Commission on Agricultural Workers (102 Stat. 2214), and \$1,290,000 for the Commission for the Study of International Migration and Cooperative Economic Development (102 Stat. 2216), both created by IRCA. Continued the ban against adoption of H-1 regulations previously proposed by INS (102 Stat. 2203).

11. *P.L. 100-461*, the Foreign Operations, Export Financing, and Related Programs Appropriations Act FY89, in section 555 amended section 901 of P.L. 100-204 (the Moynihan-Frank amendment) to extend the temporary prohibition against the exclusion or deportation of aliens on certain political or ideological grounds to 1991, but only for nonimmigrants. Also prohibited the USIA from using any funds in FY88-89 to end its J-1 au pair program, and required a GAO study of the cultural exchange program under section 101(a)(15)(J) of the INA.

12. *P.L. 100-504*, the Inspector General Act Amendments of 1988 (title I) (October 18, 1988; 102 Stat. 2515), established new Office of Inspector General in certain Departments, including Justice (102 Stat. 2515), and transferred the functions of three offices of INS to Justice's Inspector General's office (102 Stat. 2516).

13. *P.L. 100-658*, the Immigration Amendments of 1988 (November 15, 1988), made 10,000 immigrant visas available each year for FY90-91 to underrepresented countries in the immigrant visa allocation in FY88; and extended H-1 non-immigrant status for certain registered nurses through December 1, 1989.

14. *P.L. 100-690*, the Anti-Drug Abuse Act of 1988 (November 18, 1988), required denial of passports to certain convicted drug traffickers (sec. 4603); required devel-

opment of a machine-readable document border security program (sec. 4604); authorized appropriations for specified INS personnel enhancement (sec. 6151); provided for INS foreign language training (sec. 6165); and included a supplemental FY89 appropriation of \$26.2 million for INS (title X).

15. *H. Con Res. 303*, commending humanitarian treatment of Southeast Asian refugees and urging further measures to ensure humanitarian treatment of refugees (passed House October 5, 1988, Senate October 12, 1988).

C. Legislation Regulating Alien Participation in Federal Assistance Programs and Other Federal Activities

1. *P.L. 100-202*, the Further Continuing Appropriations Act, continued the prohibition against the use of Legal Services Corporation funds for most aliens not admitted for permanent residence (101 Stat. 1329-33); continued the ban against the use of military construction funds for illegal aliens (101 Stat. 1329-33); added section 1611(c)(5) to the Social Security Act, to disregard, in the computation of income for the purposes of Supplemental Security Income (SSI), payments under section 412(e) of the INA (relating to assistance for refugees) and payments under section 501(a) of P.L. 96-422 (relating to assistance for Cuban and Haitian entrants) (101 Stat. 1330-301).

3. *P.L. 100-239*, the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987, set forth requirements relating to the manning by aliens of certain fishing vessels (101 Stat. 1780).

4. *P.L. 100-242*, the Housing and Community Development Act of 1987, in section 164 (entitled Modification of restriction on use of assisted housing by aliens) amended section 214 of the Housing and Community Development Act of 1980 to add aliens legalized either temporarily or permanently under section 245A of the INA to those eligible for housing assistance; and to add a new subsection (c), modifying restrictions (101 Stat. 1860).

5. *P.L. 100-297*, the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (April 28, 1988; 102 Stat. 130), in section 1001 rewrote the Elementary and Secondary Education Act of 1965, including part D of title IV, sections 4401-4410 ("Emergency Immigrant Education Act of 1984"), dealing with Federal assistance for immigrant education (102 Stat. 242).

6. *P.L. 100-442*, the Treasury, Postal Service and General Government Appropriations Act, FY89 (September 22, 1988; 102 Stat. 1721), continued the ban against the use of military construction funds for illegal aliens (102 Stat. 1833).

8. *P.L. 100-459*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, FY89, continued the prohibition against the use of Legal Services Corporation funds for most aliens not admitted for permanent residence (102 Stat. 2225).

9. *P.L. 100-647*, the Technical and Miscellaneous Revenue Act of 1988 (November 10, 1988), amended section 202(n) of the Social Security Act to deny Social Security benefits to aliens deported under section 241(a)(19) of the INA (relating to Nazi persecution) (section 8004).

VI. 101st CONGRESS, 1989-1990

A. Legislation Amending the INA or IRCA

1. *P.L. 101-162*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (November 21, 1989; 103 Stat. 988), amended section 101(b)(2) of the INA, relating to the adoption of illegitimate children of U.S. fathers (103 Stat. 1038).

2. *P.L. 101-166*, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1990 (November 21, 1989; 103 Stat. 1159), amended section 204(a)(1) of IRCA to reduce the FY90 State legalization impact assistance grant (SLIAG) appropriation of \$1 billion by \$555.2 million and to appropriate this amount for FY92 (103 Stat. 1174).

3. *P.L. 101-238*, the Immigration Nursing Relief Act of 1989 (December 18, 1989; 103 Stat. 2099), amended sections 101(a)(15)(H)(i) and 212 of the INA to establish conditions for the admission during a 5-year period of nurses as H-1 temporary workers (103 Stat. 2100); and amended section 210 relating to SAW fraud (103 Stat. 2103). It amended section 204(c) of IRCA to authorize additional uses of SLIAG funds (103 Stat. 2104).

4. *P.L. 101-246*, the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (February 16, 1990; 104 Stat. 15), amended section 212(a) and 212(h) of the INA to provide for the exclusion of certain aliens involved in serious criminal activ-

ity who have asserted immunity from prosecution, and to allow for a waiver (104 Stat. 31).

5. *P.L. 101-249*, the Posthumous Citizenship for Active Duty Service Act of 1989 (March 6, 1990; 104 Stat. 94), amended the INA by adding a new section 329A providing for posthumous citizenship for active duty service in the U.S. Armed Forces.

6. *P.L. 101-515*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (November 5, 1990; 104 Stat. 2101), amended section 286 of the INA relating to inspection fees and processing time for alien airline passengers, and to land border inspection fees on a 3-year pilot project basis (104 Stat. 2120).

7. *P.L. 101-517*, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991 (November 5, 1990; 104 Stat. 2190), amended section 204(a)(1) of IRCA to reduce the FY91 SLIAG appropriation of \$1 billion by \$566.9 million and to provide for the appropriation in FY92 of SLIAG funds cut in FY90 and FY91 (104 Stat. 2206).

9. *P.L. 101-649*, the Immigration Act of 1990 (November 29, 1990; 104 Stat. 4978), extensively amended the INA to revise the regulation of legal immigration, the work-related nonimmigrant categories, the grounds for exclusion and deportation, naturalization procedures, and other provisions.

B. Legislation Affecting the INA, IRCA, INS Operations, or Refugees

1. *P.L. 101-45*, the Dire Emergency Supplemental Appropriations Act, 1989 (June 30, 1989; 103 Stat. 97), included \$85 million for the State Department's Migration and Refugee Assistance Account for Soviet and other Eastern European admissions resulting from an increase in the FY89 refugee ceiling (103 Stat. 101).

2. *P.L. 101-162*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (November 21, 1989; 103 Stat. 988), appropriated \$828.3 million for INS within the Justice Department (103 Stat. 999); \$35 million for the immigration emergency fund authorized by section 404(b) of the INA (103 Stat. 1000); up to \$21.5 million for the Community Relations Service within the Justice Department for the care of Cuban and Haitian entrants (103 Stat. 997); and \$5 million to reimburse States for incarcerating Mariel Cubans (103 Stat. 1002).

3. *P.L. 101-166*, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1990 (November 21, 1989; 103 Stat. 1159), appropriated \$368.8 million for HHS Refugee and Entrant Assistance, of which \$210 million was earmarked for State cash and medical assistance (103 Stat. 1174).

4. *P.L. 101-167*, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (November 21, 1989; 103 Stat. 1195), appropriated \$370 million for the State Department's Migration and Refugee Assistance account, including the refugee admissions program, and earmarked \$15 million for HHS (103 Stat. 1210); required the Attorney General to establish certain categories of Soviet and Indochinese nationals for which evidence needed to prove refugee status is lessened through September 30, 1990 (section 599D; 103 Stat. 1261); and provided for adjustment to permanent resident status for certain Soviet and Indochinese nationals granted parole prior to September 30, 1990 (section 599E; 103 Stat. 1263).

5. *P.L. 101-189*, the National Defense Authorization Act for Fiscal Years 1990 and 1991 (November 29, 1989; 103 Stat. 1352), extended through December 31, 1991 the H-1 nonimmigrant status of certain aliens employed in cooperative research and development projects and coproduction projects (103 Stat. 1538). [A related permanent provision was included in *P.L. 101-649*, the Immigration Act of 1990 (104 Stat. 5028).]

6. *P.L. 101-193*, the Intelligence Authorization Act, Fiscal Year 1990 (November 30, 1989; 103 Stat. 1701), set forth naturalization requirements for staff of the U.S. Army Russian Institute in Garmisch, Germany, under section 319(c) of the INA (103 Stat. 1709).

7. *P.L. 101-238*, the Immigration Nursing Relief Act of 1989 (December 18, 1989; 103 Stat. 2099), provided for adjustment to permanent resident status for certain H-1 nonimmigrant nurses.

8. *P.L. 101-246*, the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (February 16, 1990; 104 Stat. 15), required a State Department report on the feasibility of a compensation program for crimes committed by aliens with diplomatic immunity (104 Stat. 31); and made permanent the so-called Moynihan-Frank amendment (*P.L. 100-204*, section 901, as amended) barring the exclusion or deportation of nonimmigrants for beliefs, statements, or associations which would be constitutional for U.S. citizens (104 Stat. 30). [The Moynihan-Frank amendment was repealed by *P.L. 101-649*, the Immigration Act of 1990 (104 Stat. 5084).]

3. *P.L. 101-239*, the Omnibus Budget Reconciliation Act of 1989 (December 19, 1989; 103 Stat. 2106), amended the Internal Revenue Code to prohibit termination of Social Security coverage of U.S. citizens and permanent resident aliens employed abroad by a foreign affiliate of an American employer (103 Stat. 2472).

4. *P.L. 101-509*, the Treasury, Postal Service, and General Government Appropriations Act, 1991 (November 5, 1990; 104 Stat. 1389), continued the Government-wide ban against the employment of non-citizens, with specified exceptions (104 Stat. 1471).

5. *P.L. 101-515*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (November 5, 1990; 104 Stat. 2101), continued the prohibition against the use of Legal Services Corporation funds for most aliens not admitted for permanent residence (104 Stat. 2150).

6. *P.L. 101-589*, the Excellence in Mathematics, Science and Engineering Education Act of 1990 (November 16, 1990; 104 Stat. 2881), amended the National Science Foundation Act of 1950 to make permanent resident aliens eligible for graduate fellowships (104 Stat. 2895).

7. *P.L. 101-595*, the Federal Maritime Commission Authorization Act of 1990 (November 16, 1990; 104 Stat. 2979), provided that, effective through October 1, 2000, permanent resident aliens operating fishing vessels off the coast of California will be treated as U.S. citizens for the purpose of restrictions on non-U.S. citizens (104 Stat. 2988).

VII. 102d CONGRESS, 1991-1992

A. Legislation Amending the INA, IRCA, or IMMACT'90

1. *P.L. 102-65* (July 2, 1991; 105 Stat. 322) amended section 303(b)(1)(C) of IMMACT'90 to extend for 4 months, until October 31, 1991, the application deadline for special temporary protected status for Salvadorans.

2. *P.L. 102-110*, Armed Forces Immigration Adjustment Act of 1991 (October 1, 1991), amended section 101(a)(27) of the INA to provide special immigrant status for aliens who have served honorably in the U.S. Armed Forces for at least 12 years (105 Stat. 555); amended section 214(g)(1)(C) of the INA to delay until April 1, 1992, implementation of provisions relating to O and P artist, entertainer, and athlete nonimmigrants (105 Stat. 557); amended section 161(c) of IMMACT'90 to provide for automatic conversion of employment-based immigrant petitions to new categories (105 Stat. 557); amended section 414(a) of the INA to authorize FY 1992 appropriations for refugee resettlement assistance (105 Stat. 558).

3. *P.L. 102-140*, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992 (October 28, 1991; 105 Stat. 782), amended section 245A(c)(7) of the INA to make available up to \$3 million annually of the unobligated balances from legalization application fees for grants for community-based outreach programs regarding immigration-related unfair employment practices (105 Stat. 785).

4. *P.L. 102-170*, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1992 (November 26, 1991; 105 Stat. 1107), amended section 204 of IRCA to defer \$1.1 billion in State legalization impact assistance grant (SLIAG) funds to FY 1993 and to require that State allocations be made no later than October 15, 1992 (105 Stat. 1124).

5. *P.L. 102-232*, the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (December 12, 1991; 105 Stat. 1733), amended section 310 of the INA to restore exclusive authority to the courts during a specified time period to administer oaths of allegiance for naturalization (105 Stat. 1733); revised provisions of the INA relating to O and P artist, entertainer, and athlete nonimmigrants (105 Stat. 1736); and made extensive miscellaneous and technical corrections to the immigration laws, including INA, IRCA, and IMMACT'90 (105 Stat. 1742).

6. *P.L. 102-394*, Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 1993 (October 6, 1992; 106 Stat. 1792), amended IRCA provisions relating to the use of funds under the SLIAG program (106 Stat. 1808).

7. *P.L. 102-395*, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (October 6, 1992; 106 Stat. 1828), amended section 286 of the INA to establish a Breached Bond/Detention Account (106 Stat. 1843).

B. Legislation Affecting the INA, IRCA, IMMACT'90, INS Operations, or Refugees

1. *P.L. 102-138*, Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (October 28, 1991; 105 Stat. 647), prohibited the Secretary of State from including in the Automated Visa Lookout System the names of aliens not excludable under the INA, with exceptions for law enforcement and other lawful purposes set forth

9. *P.L. 101-302*, the Dire Emergency Supplemental Appropriations Act, 1990 (May 25, 1990; 104 Stat. 213), appropriated \$70 million for the refugee admissions program under the State Department's Migration and Refugee Assistance account, and required full funding of refugee admissions numbers for Soviet Union Evangelicals (104 Stat. 222); and appropriated \$6 million for HHS targeted assistance, of which \$5 million was earmarked for Cuban/Haitian entrants (104 Stat. 233).

10. *P.L. 101-382*, the Customs and Trade Act of 1990 (August 20, 1990; 104 Stat. 629), directed AID to establish a program providing scholarships to students from the Caribbean and Central America (104 Stat. 661); and required a demonstration preclearance program in a Caribbean country, with participation by INS as specified (104 Stat. 663).

11. *P.L. 101-454*, the Eisenhower Exchange Fellowship Act of 1990 (October 24, 1990; 104 Stat. 1063), required the USIA to continue to implement its J-1 au pair programs until such programs are authorized and implemented by another Government agency; and provided for the use of Eisenhower Exchange Fellowships by foreign students and for an agricultural exchange program (104 Stat. 1065).

12. *P.L. 101-508*, the Omnibus Budget Reconciliation Act of 1990 (November 5, 1990; 104 Stat. 1388), included provisions exempting certain aliens legalized under the INA from prosecution for misreporting of earnings or misuse of social security account numbers or cards (sec. 5121, 104 Stat. 1388-283); and required that commercial airlines and passenger cruise ship lines transporting passengers to the United States be charged a U.S. Travel and Tourism Facilitation Fee based on the number of B nonimmigrant visitors transported (sec. 10301, 104 Stat. 1388-395).

13. *P.L. 101-513*, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (November 5, 1990; 104 Stat. 1979), appropriated \$485.6 million for the State Department's Migration and Refugee Assistance account, including the U.S. refugee admissions program (104 Stat. 1995); removed the deadline on the Amerasian immigration provision in section 584 of P.L. 100-202, and amended it to provide that married Amerasians could be accompanied by both their spouses and mothers (104 Stat. 1996); and extended the so-called Lautenberg amendment, section 599D and 599E of P.L. 101-167, through September 30, 1992 (104 Stat. 2063).

14. *P.L. 101-515*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (November 5, 1990; 104 Stat. 2101), appropriated \$884 million for INS (104 Stat. 2113); up to \$19.6 million for the Community Relations Service for the care of Cuban/Haitian entrants (104 Stat. 2111); \$5 million to reimburse States for incarcerating Mariel Cubans (104 Stat. 2116); and \$1.5 million for the Commission on Agricultural Workers (104 Stat. 2135).

15. *P.L. 101-517*, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991 (November 5, 1990; 104 Stat. 2190), appropriated \$410.6 million for HHS Refugee and Entrant Assistance, of which \$234.2 million was earmarked for State cash and medical assistance (104 Stat. 2205, 2222).

16. *P.L. 101-624*, the Food, Agriculture, Conservation, and Trade Act of 1990 (November 28, 1990; 104 Stat. 3359), amended the Food Stamp Act to require only one signature per household for food stamp applications, certifying that all members of the household are either citizens or aliens eligible to receive food stamps (104 Stat. 3793). [This provision has the effect of overriding the individual immigration status verification requirement for food stamp applicants under the SAVE program created by section 121 of IRCA.]

17. *P.L. 101-649*, the Immigration Act of 1990 (November 29, 1990; 104 Stat. 4978), in addition to amending the INA, included a series of free-standing provisions such as those establishing the temporary diversity programs and the Commission on Legal Immigration Reform (104 Stat. 5000-5001), the temporary or limited non-immigrant provisions (104 Stat. 5027-5028), and the family unity provisions (104 Stat. 5029).

C. Legislation Regulating Alien Participation in Federal Assistance Programs and Other Federal Activities

1. *P.L. 101-136*, the Treasury, Postal Service, and General Government Appropriations Act, 1990 (November 3, 1989; 103 Stat. 783), continued the Government-wide ban against the employment of non-citizens, with specified exceptions (103 Stat. 816).

2. *P.L. 101-162*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (November 21, 1989; 103 Stat. 988), continued the prohibition against the use of Legal Services Corporation funds for most aliens not admitted for permanent residence (103 Stat. 1033).

in regulation; and required the Secretary to report to Congress on all visa denials on the grounds of terrorist activities or foreign policy (105 Stat. 661).

2. *P.L. 102-140*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992 (October 28, 1991; 105 Stat. 782), appropriated \$938.2 million for INS within the Department of Justice, of which \$312.5 million was earmarked for the Border Patrol (105 Stat. 789); up to \$18.2 million for the Justice Department's Community Relations Service for use relating to Cuban and Haitian entrants (105 Stat. 787); \$5 million to reimburse States for incarcerating Mariel Cubans (105 Stat. 783); \$3.5 million to the Bureau of Prisons for renovation of the INS detention center at El Centro, California (105 Stat. 791); and \$1.43 million for the Commission on Agricultural Workers (105 Stat. 812). It also required the Attorney General to issue regulations within 30 days regarding the immigration emergency fund authorized by section 404(b) of the INA (105 Stat. 832).

3. *P.L. 102-141*, the Treasury, Postal Service and General Government Appropriations Act, 1992 (October 28, 1991), provided for the transfer of \$7.5 million from a Special Forfeiture Fund to INS for 75 additional Border Patrol agents for the U.S.-Mexico border (105 Stat. 847).

4. *P.L. 102-145*, Further Continuing Appropriations, Fiscal Year 1992 (October 28, 1991; 105 Stat. 968), continued funding for the State Department's U.S. refugee admissions program under the Migration and Refugee Assistance account until the enactment of the Foreign Operations FY 1992 appropriation or March 31, whichever comes first (105 Stat. 970).

5. *P.L. 102-170*, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1992 (November 26, 1991; 105 Stat. 1107), appropriated \$410.6 million for HHS Refugee and Entrant Assistance, with the proviso that \$116.6 million of the funds made available for State cash and medical assistance will not become available for obligation until September 30, 1992 (105 Stat. 1123).

6. *P.L. 102-232*, the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (December 12, 1991; 105 Stat. 1733), in addition to amending the immigration laws, included the requirement that the General Accounting Office (GAO) submit a report not later than October 1, 1994, relating to artists, entertainers, and athletes admitted as O and P nonimmigrants under the amended INA (105 Stat. 1737), and additional miscellaneous corrections to other laws.

7. *P.L. 102-391*, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (October 6, 1992; 106 Stat. 1633), extended the so-called Lautenberg amendment, section 599D and 599E of P.L. 101-167, through September 30, 1994 (106 Stat. 1686).

8. *P.L. 102-394*, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993 (October 6, 1992; 106 Stat. 1792), appropriated \$384,576,000 for HHS Refugee and Entrant Assistance.

9. *P.L. 102-395*, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (October 6, 1992; 106 Stat. 1828), appropriated \$965 million for INS within the Department of Justice (106 Stat. 1836); up to \$18,192,000 million for the Justice Department's Community Relations Service for use relating to Cuban and Haitian entrants (106 Stat. 1834); \$300,000 for the Commission on Immigration Reform (106 Stat. 1836); \$2.5 million to reimburse States for incarcerating Mariel Cubans (106 Stat. 1829); and \$578,000 million for the Commission on Agricultural Workers (106 Stat. 1861). It authorized use of certain funds from the Assets Forfeiture Fund for construction and renovation of INS detention facilities (106 Stat. 1841). It also provided special procedures for naturalization of Filipinos under section 405 of IMMACT'90 (106 Stat. 1844) and established a pilot immigration program of 300 B-5 visas a year for 5 years to promote regional economic growth (106 Stat. 1874).

10. *P.L. 102-404*, Chinese Student Protection Act of 1992 (October 9, 1992; 106 Stat. 1969), provided for adjustment to lawful permanent resident status of certain nationals of the People's Republic of China.

11. *P.L. 102-484*, National Defense Authorization Act for Fiscal Year 1993 (October 23, 1995; 106 Stat. 2315), designated U.S. military physicians as civil surgeons under section 234 of the INA for special immigrants under section 101(a)(27)(K) of the INA (106 Stat. 2514).

12. *P.L. 102-509*, Soviet Scientists Immigration Act of 1992 (October 24, 1992; 106 Stat. 3316), waived job offer requirement and classification of exceptional ability for aliens who are scientists in the former Soviet Union.

13. *P.L. 102-511*, FREEDOM Support Act (October 24, 1992; 106 Stat. 3320), extended the so-called Lautenberg amendment, section 599D and 599E of P.L. 101-167, through September 30, 1994 (106 Stat. 3356) [overlaps with P.L. 102-391].

C. Legislation Regulating Alien Participation in Federal Assistance Programs and Other Federal Activities

1. *P.L. 102-140*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992 (October 28, 1991; 105 Stat. 782), continued the prohibition against the use of Legal Services Corporation funds for most aliens not admitted for permanent residence (105 Stat. 824).

2. *P.L. 102-141*, the Treasury, Postal Service and General Government Appropriations Act, 1992 (October 28, 1991; 105 Stat. 834), continued the Government-wide ban against the employment of non-citizens, with specified exceptions (105 Stat. 868).

3. *P.L. 102-318*, Unemployment Compensation Amendments of 1992 (July 3, 1992; 106 Stat. 290), extended to January 1, 1995, a FUTA exemption for certain agricultural workers and provided for a report on treatment of agricultural labor performed by aliens (106 Stat. 297).

4. *P.L. 102-393*, the Treasury, Postal Service, and General Government Appropriations Act, 1993 (October 6, 1992; 106 Stat. 1729), continued the Government-wide ban against the employment of non-citizens, with specified exceptions (106 Stat. 1766).

5. *P.L. 102-395*, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (October 6, 1992; 106 Stat. 1828), continued the prohibition against the use of Legal Services Corporation funds for most aliens not admitted for permanent residence (106 Stat. 1875).

VIII. 103d CONGRESS, 1993-1994

A. Legislation Amending the INA, IRCA, or IMMACT'90

1. *P.L. 103-37*, (June 8, 1993; 107 Stat. 107), amended section 414(a) of the INA to authorize appropriations for refugee assistance for fiscal years 1993 and 1994.

2. *P.L. 103-43*, National Institutes of Health Revitalization Act of 1993 (June 10, 1993; 107 Stat. 122), amended section 212(a)(1)(A)(i) of the INA to exclude HIV-positive individuals (107 Stat. 210).

3. *P.L. 103-121*, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (October 27, 1993; 107 Stat. 1153), amended section 286 of the INA to increase the user fee from \$5 to \$6 and to permit the Immigration User Fee Account to be used for certain detention and deportation services and providing exclusion and asylum proceedings (107 Stat. 1161).

4. *P.L. 103-182*, North American Free Trade Agreement Implementation Act (December 8, 1993; 107 Stat. 2057), amended section 214 of the INA to permit the temporary entry of business persons under NAFTA (107 Stat. 2116).

5. *P.L. 103-198*, Copyright Royalty Tribunal Reform Act of 1993 (December 17, 1993; 107 Stat. 2304), amended section 258 of the INA to provide for an exception for longshore work performed by alien crewmembers in Alaskan waters (107 Stat. 2313) [but these provisions subsequently repealed by section 219(gg) of P.L. 103-416].

6. *P.L. 103-206*, Coast Guard Authorization Act of 1993 (December 20, 1993; 107 Stat. 2419), amended section 258 of the INA to provide for an exception for longshore work performed by alien crewmembers in Alaskan waters (107 Stat. 2428). [see also P.L. 103-198]

7. *P.L. 103-236*, Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (April 30, 1994; 108 Stat. 382), amended sections 101, 104, and 105 of the INA to eliminate references to the Bureau of Consular Affairs (108 Stat. 407) and amended title IV of the INA to eliminate references to the U.S. Coordinator for Refugee Affairs (108 Stat. 409).

8. *P.L. 103-317*, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995 (August 26, 1994; 108 Stat. 1724), amended sections 212 and 245 of the INA respecting excludability and adjustment of status of aliens who entered the U.S. without inspection (108 Stat. 1765).

9. *P.L. 103-322*, Violent Crime Control and Law Enforcement Act of 1994 (September 13, 1994; 108 Stat. 1796), amended section 242 of the INA with regard to the incarceration of undocumented criminal aliens (108 Stat. 1823); amended sections 204, 216, and 244 of the INA to provide alien petitioning rights and other protections for battered alien family members (108 Stat. 1953-5); amended section 274 of the INA to provide for enhanced penalties for alien smuggling (108 Stat. 1981); amended various provisions to the INA to provide enhanced enforcement in the case of criminal aliens (108 Stat. 2023), to establish a new nonimmigrant status for alien witnesses (108 Stat. 2024), to expedite deportation proceedings for criminal aliens (108 Stat. 2026), and to increase penalties for passport and visa offenses (108 Stat. 2030).

10. *P.L. 103-333*, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995 (September 30, 1994; 108 Stat. 2539), amends section 204 of IRCA with respect to use of SLIAG funds through July, 1995 (108 Stat. 2558).

11. *P.L. 103-337*, National Defense Authorization Act for Fiscal Year 1995 (October 5, 1994; 108 Stat. 2663), amends section 101 to provide special immigrant status for those continued to be employed by the U.S. Government in the Canal Zone (108 Stat. 3113).

12. *P.L. 103-415*, (October 25, 1994; 108 Stat. 4299), corrects section 104 in the table of contents of the INA (108 Stat. 4303).

13. *P.L. 103-416*, Immigration Technical Amendments Act of 1994 (October 26, 1994, 108 Stat. 4305), made numerous amendments to title III of the INA and technical corrections to the INA and immigration-related laws.

B. Legislation Affecting the INA, IRCA, IMMACT'90, INS Operations, or Refugees

1. *P.L. 103-112*, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1994 (October 21, 1993; 107 Stat. 1097), appropriated \$400 million for HHS Refugee and Entrant Assistance.

2. *P.L. 103-121*, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (October 27, 1993; 107 Stat. 1153), appropriated \$1,048 million for INS within the Department of Justice (107 Stat. 1160); up to \$16,278,000 million for the Justice Department's Community Relations Service for use relating to Cuban and Haitian entrants (107 Stat. 1158); \$6 million for the Immigration Emergency Fund (107 Stat. 1161); \$1,118,000 for the Commission on Immigration Reform (107 Stat. 1181), of which \$500,000 is transferred from the Commission on Agricultural Workers. It authorized the indefinite use of certain funds from the Assets Forfeiture Fund for construction and renovation of INS detention facilities (107 Stat. 1163). It also extended the Land Border Fee Pilot Project through September 30, 1996 for the northern border only (107 Stat. 1161).

3. *P.L. 103-160*, National Defense Authorization Act for Fiscal Year 1994 (November 30, 1993; 107 Stat. 1547), expresses the sense of the Senate regarding entry of former members of the Iraqi armed forces (107 Stat. 1764).

4. *P.L. 103-199*, FRIENDSHIP Act (December 17, 1993; 107 Stat. 2317), relating to construction of provisions of the INA in relation to no longer being directed against Russia or other former Soviet republics (107 Stat. 2319).

5. *P.L. 103-236*, Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (April 30, 1994; 108 Stat. 382), authorized imposition of a visa surcharge, use of an automated visa lookout system, and access to the interstate identification index (108 Stat. 399); amended the Refugee Act of 1980 to eliminate the U.S. Coordinator for Refugee Affairs (108 Stat. 409); and extended the so-called Lautenberg amendment, section 599D and 599E of P.L. 101-167, through September 30, 1996 (108 Stat. 466).

6. *P.L. 103-296*, Social Security Independence and Program Improvements Act of 1994 (August 15, 1994; 108 Stat. 1464) extended FICA tax and Social Security exemption to "Q" nonimmigrants (108 Stat. 1535).

7. *P.L. 103-317*, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995 (August 26, 1994; 108 Stat. 1724), appropriated \$1,102 million for INS within the Department of Justice (108 Stat. 1732); up to \$10,001,000 million for the Justice Department's Community Relations Service for use relating to Cuban and Haitian entrants (108 Stat. 1730); \$75 million for the Immigration Emergency Fund (108 Stat. 1732); \$1,894,000 for the Commission on Immigration Reform (108 Stat. 1754); and provided an additional \$154 million for border control system modernization (108 Stat. 1779). It also provided for fingerprint checks for certain immigrants in 10 countries with highest volume of immigrant visa issuance (108 Stat. 1765).

8. *P.L. 103-322*, Violent Crime Control and Law Enforcement Act of 1994 (September 13, 1994, 108 Stat. 1796), provided for Attorney General to establish guidelines for prevention and care relating to tuberculosis in INS holding facilities); authorized additional funds to expedite deportation for denied asylum applicants, for improved border controls, and special deportation proceedings (108 Stat. 2028); and provides for examination of impact of changes in Federal immigration laws and policies on crime and violence in the United States (108 Stat. 2092).

9. *P.L. 103-333*, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995 (September 30, 1994; 108 Stat. 2539), rescinded SLIAG funds not obligated by June 29, 1995, and provides an additional \$6 million for naturalization outreach activities (108 Stat. 2558); and appropriated \$399 million for HHS Refugee and Entrant Assistance (108 Stat. 2558).

10. *P.L. 103-337*, National Defense Authorization Act for Fiscal Year 1995 (October 5, 1994; 108 Stat. 2663), stating the sense of Congress concerning visas for high-level officials of Taiwan (108 Stat. 2860).

11. *P.L. 103-415*, (October 25, 1994; 108 Stat. 4299), made technical corrections relating to use of automated visa lookout system (108 Stat. 4299, 4302).

12. *P.L. 103-447*, International Narcotics Control Corrections Act of 1994 (November 2, 1994; 108 Stat. 4691), requested the President to deny entry to immediate relatives and business partners of drug traffickers (108 Stat. 4695).

C. Legislation Regulating Alien Participation in Federal Assistance Programs and Other Federal Activities

1. *P.L. 103-121*, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (October 27, 1993; 107 Stat. 1153), continued the prohibition against the use of Legal Services Corporation funds for most aliens not admitted for permanent residence (107 Stat. 1196).

2. *P.L. 103-123*, the Treasury, Postal Service, and General Government Appropriations Act, 1994 (October 28, 1993, 107 Stat. 1226), continued the Government-wide ban against the employment of non-citizens, with specified exceptions (107 Stat. 1259).

3. *P.L. 103-152*, the Unemployment Compensation Amendments of 1993 (November 24, 1993, 107 Stat. 1516), includes a provision increasing from 3 years to 5 years, during the period beginning January 1, 1994, and ending September 30, 1996, the period during which the determination of immigrant's eligibility for supplemental security income takes into account the immigrant's sponsor's income (107 Stat. 1519).

4. *P.L. 103-211*, (February 12, 1994; 108 Stat. 3), prohibited benefits for funds made available in the emergency supplemental appropriations for individuals not lawfully within the U.S. (108 Stat. 40).

5. *P.L. 103-317*, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995 (August 26, 1994; 108 Stat. 1724), continued the prohibition against the use of Legal Services Corporation funds for most aliens not admitted for permanent residence (108 Stat. 1759).

6. *P.L. 103-329*, the Treasury, Postal Service, and General Government Appropriations Act, 1995 (September 30, 1994; 108 Stat. 2382), continued the Government-wide ban against the employment of non-citizens, with specified exceptions (108 Stat. 2416).

7. *P.L. 103-333*, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995, (September 30, 1994; 108 Stat. 2539), prohibited use of Federal funds to induce undocumented immigrants to apply for Federal benefits and disallows waivers of participation in the SAVE system on the basis of cost-effectiveness (108 Stat. 2573).

8. *P.L. 103-465*, Uruguay Round Agreements Act (December 8, 1994; 108 Stat. 4809), denied certain nonresident aliens eligibility for the earned income tax credit (108 Stat. 5002).

D. TABLES OF TRANSMISSION REQUIREMENTS OVER TIME FOR CITIZENSHIP FOR CERTAIN INDIVIDUALS BORN ABROAD

(Source: Bureau of Consular Affairs, Department of State; as of March 20, 1995;
NOTE.—These tables are intended for use only as a useful generalized reference
guide, and *not* to make determinations or to be cited in any case.)

BIRTH ABROAD TO U.S. CITIZEN PARENT AND ALIEN PARENT

Date of Birth	Transmission Requirements	Reference	Retention Requirements	Reference
Before Noon EST 5/24/34	Either U.S. citizen father or mother could transmit. U.S. citizen parent resided in U.S. be- fore child's birth.	Sec. 1993, Revised Statutes (RS) 7 FAM 1135 Sec. 301(b) INA § 101 P.L. 103-416	None	
Noon EST 5/24/34 and prior to 1/13/41	Either U.S. citizen father or mother could transmit. U.S. citizen parent resided in U.S. be- fore child's birth.	Sec. 1993, RS as amended in 1934 7 FAM 1135.6-2	Persons failing to fulfill below requirements may have citi- zenship re- stored upon taking oath of allegiance: (1) 5 years resi- dence between ages 13-21 if begun before 12/24/52; or (2) 2 years con- tinuous phys- ical presence between ages 14 and 28; * or (3) 5 years con- tinuous phys- ical presence between ages 14 and 28 if begun before 10/27/72 ** (4) None if par- ent employed certain occu- pation *** (5) None if alien parent natu- ralized and child began to reside perma- nently in U.S. while under age 18	Sec. 324(d)(1) INA § 101 P.L. 103- 416 (1) Sec. 201(g) & (h) NA; 7 FAM 1134.5-1 (2) Former Sec. 301(b), (c) INA; 7 FAM 1133.5-3, 5- 4 (3) Former Sec. 301(b), (d) INA; 7 FAM 1133.5-1a, 1133.5-2, 1133.5-8 (4) Sec. 201(g) NA; 7 FAM 1134.5 (5) Former Sec. 301(b) INA; 7 FAM 1133.5- 6, 1133.5-10

BIRTH ABROAD TO U.S. CITIZEN PARENT AND ALIEN PARENT—Continued

Date of Birth	Transmission Requirements	Reference	Retention Requirements	Reference
1/13/41 and prior to 12/24/52	Citizen parent resided in U.S. or possession 10 years prior to child's birth, five of which after the age of 16	201(g) NA; 7 FAM 1134.1. 1134.2	Persons failing to fulfill below requirements may have citizenship restored upon taking oath of allegiance: (1) 2 years continuous physical presence between ages 14 and 28; * or (2) 5 years continuous physical presence between ages 14 and 28 if begun before 10/27/72 ** (3) None if parent employed in certain occupation *** (4) None if child born on or after 10/10/52 (5) None if alien parent naturalized and child began to reside permanently in U.S. while under age 18	Sec. 324(d)(1) INA § 101 P.L. 103-416 (1) Former Sec. 301(b), (c) INA; 7 FAM 1134.5. (2) Former Sec. 301(b), (d) INA; 7 FAM 1133.5-1a, 1133.5-2, 1133.5-8 (3) 201(g) NA; 7 FAM 1134.5-2. (4) P.L. 95-432; 7 FAM 1133.5-14 (5) Former Sec. 301(b) INA; 7 FAM 1133.5-6, 1133.5-10

BIRTH ABROAD TO U.S. CITIZEN PARENT AND ALIEN PARENT—Continued

Date of Birth	Transmission Requirements	Reference	Retention Requirements	Reference
	Citizen parent in U.S. Military 12/7/41–12/31/46 and resided in U.S. or possession 10 years prior to child's birth, five of which after age 12	201(i) NA; 7 FAM 1134.1, 1134.3a, 1134e.	Persons failing to fulfill below requirements may have citizenship restored upon taking oath of allegiance: (1) 2 years continuous physical presence between ages 14 and 28; * or (2) 5 years continuous physical presence between ages 14 and 28 if begun before 10/27/72 ** (3) None if child born on or after 10/10/52 (4) None if alien parent naturalized and child began to reside permanently in U.S. while under age 18	Sec. 324(d)(1) INA § 101 P.L. 103–416 (1) Former Sec. 301(b) INA; 7 FAM 1134.3(e), 1133.5 (2) Former Sec. 301(b), (d) INA; 7 FAM 1133.5–1a, 1133.5–2, 1133.5–8 (3) P.L. 95–432; 7 FAM 1134.1, 2 (4) Former Sec. 301(b) INA; 7 FAM 1133.5–6, 1133.5–10

BIRTH ABROAD TO U.S. CITIZEN PARENT AND ALIEN PARENT—Continued

Date of Birth	Transmission Requirements	Reference	Retention Requirements	Reference
1/13/41 and prior to 12/24/52 —Continued	Citizen parent in U.S. Military 1/1/47–12/24/52 and physically present in U.S. or possession 10 years prior to child's birth, five of which after age 14, and who did not qualify under either provision above	Sec. 301(a)(7), now 301(g) INA; 7 FAM 1134.3f	Persons failing to fulfill below requirements may have citizenship restored upon taking oath of allegiance: (1) 2 years continuous physical presence between ages 14 and 28; * or (2) 5 years continuous physical presence between ages 14 and 28 if begun before 10/27/72 ** (3) None if child born on or after 10/10/52 (4) None if alien parent naturalized and child began to reside permanently in U.S. while under age 18	Sec. 324(d)(1) INA § 101 P.L. 103–416 (1) Former Sec. 301(b) INA; 7 FAM 1133.5 (2) Former Sec. 301(b), (d) INA; 7 FAM 1133.5–1a, 1133.5–2, 1133.5–8 (3) P.L. 95–432; 7 FAM 1133.5–14 (4) Former Sec. 301(b) INA; 7 FAM 1133.5–6, 1133.5–10
12/24/52 and prior to 11/14/86	Citizen parent physically present in U.S. or possession 10 years prior to child's birth, five of which after age 14. Honorable U.S. military service, employment with U.S. Government or intergovernmental international organization, or as dependent unmarried son or daughter and member of the household of a parent in such service or employment, may be included.	Sec. 301(a)(7), now 301(g) INA; 7 FAM 1133.2–1, 1133.3–1c	None	
On or after 11/14/86	Citizen parent physically present in U.S. or possession 5 years prior to child's birth, two of which after age 14	301(g) INA; P.L. 99–653, P.L. 100–525	None	

*Absences of less than 60 days in aggregate during 2 year period does not break continuity.

**Absences of less than one year in aggregate during 5 year period do not break continuity.

***U.S. Government, American educational, scientific, philanthropic, religious, commercial, or financial organization or an International Agency in which the U.S. takes part.

Note: Residence or physical presence of parent must take place **before** child's birth.

BIRTH ABROAD TO TWO U.S. CITIZEN PARENTS

Date of Birth	Transmission Requirements (Parents' residence)	Applicable Laws	Reference
Before noon EST 5/24/34	One parent resided in the U.S.	Sec. 1993, Revised Statutes (RS) Sec. 301(h) INA § 101 P.L. 103-416	7 FAM 1135.1, 1135.2
Noon EST 5/24/34 and prior to 1/13/41	One parent resided in the U.S.	Sec. 1993, RS as amended by Act of 5/24/34	7 FAM 1135.6-2
1/13/41 and prior to 12/24/52	One parent resided in the U.S. or possession	Sec. 201(c) NA	7 FAM 1134.1(c), 1134.2-1c, 1134.2-2
On or after 12/24/52	One parent resided in the U.S. or possession	Sec. 301(a)(3), now 301(c) INA	7 FAM 1133.2-1c, 1133.3-1a

Notes: (1) In all cases residence must take place **prior** to the child's birth.

(2) The law does not define how long residence must be.

(3) Children born to two U.S. citizen parents never had retention requirements.

CHILD BORN OUT OF WEDLOCK TO U.S. CITIZEN MOTHER

Date of Birth	Transmission Requirements (Parents' residence)	Applicable Laws	Reference
Before noon EST 5/24/34	Mother resided in the U.S. or possession prior to child's birth; child not legitimated by alien father before 1/13/41	Sec. 205, Paragraph 2, NA	7 FAM 1135.3-2, 1134.4-4
Noon EST 5/24/34 and prior to 1/13/41	Mother resided in U.S. or possession prior to child's birth	Sec. 1993, RS as amended by Act of 5/24/34; Sec. 205, Para. 2, NA	7 FAM 1135.7-2, 1134.4-4
1/13/41 and prior to 12/24/52	Mother resided in U.S. or possession prior to child's birth	Sec. 205, Paragraph 2, NA	7 FAM 1134.4-4
On or after 12/24/52	Mother physically present in U.S. or possession continuously 12 months prior to child's birth	Sec. 309(c), INA	7 FAM 1133.4-1, 1133.4-3d

Note: Children born out of wedlock to a U.S. citizen mother never had retention requirements.

CHILD BORN OUT OF WEDLOCK TO U.S. CITIZEN FATHER AND ALIEN MOTHER

Date of Birth	Transmission and Legal Relationship Requirements	Reference	Retention Requirements	Reference
Before Noon EST 5/24/34	Legitimated under law of father's U.S. or foreign domicile. Father resided in U.S. before child's birth.	Sec. 1993, Revised Statutes (RS); 7 FAM 1135.3-1	None	
Noon EST 5/24/34 and prior to 1/13/41	Legitimated under law of father's U.S. or foreign domicile. Father resided in U.S. before child's birth.	Sec. 1993, RS as amended in 1934; 7 FAM 1135.7-1	<p>Persons failing to fulfill below requirements may have citizenship restored upon taking oath of allegiance:</p> <p>(1) 5 years residence between ages 13-21 if begun before 12/24/52; or</p> <p>(2) 2 years continuous physical presence between ages 14 and 28; * or</p> <p>(3) 5 years continuous physical presence between ages 14 and 28 if begun before 10/27/72 **</p> <p>(4) None if parent employed certain occupation ***</p> <p>(5) None if alien parent naturalized and child began to reside permanently in U.S. while under age 18</p>	<p>Sec. 324(d)(1) INA § 101 P.L. 103-416</p> <p>(1) Sec. 201(g) & (h) NA; 7 FAM 1134.5-1</p> <p>(2) Former Sec. 301(b), (c) INA; 7 FAM 1133.5-3, 1133.5-4</p> <p>(3) Former Sec. 301(b), (d) INA; 7 FAM 1133.5-1a, 1133.5-2, 1133.5-8</p> <p>(4) Sec. 201(g) NA; 7 FAM 1134.5-2</p> <p>(5) Former Sec. 301(b) INA; 7 FAM 1133.5-6, 1133.5-10</p>

CHILD BORN OUT OF WEDLOCK TO U.S. CITIZEN FATHER AND ALIEN MOTHER—Continued

Date of Birth	Transmission and Legal Relationship Requirements	Reference	Retention Requirements	Reference
1/13/41 and prior to 12/24/52	<p>(1)(A) Father physically present in U.S. or possession 10 years prior to child's birth, 5 of which after the age of 14. Honorable U.S. military service, employment with U.S. Government or intergovernmental international organization, or as dependent unmarried son or daughter and member of the household of a parent in such service or employment may be included; and</p> <p>(B) Paternity established before age 21 by the legitimation law of father's or child's residence/domicile; OR</p> <p>(2)(A) Father resided in U.S. or possession 10 years prior to child's birth, five of which after the age of 16 years; and</p> <p>(B) Paternity established during minority by legitimation or court adjudication before 12/24/52.</p>	<p>Sec. 301(a)(7) INA</p> <p>Sec. 309(b) INA</p> <p>Sec. 201(g) NA</p> <p>Sec. 205 NA</p>	<p>Persons failing to fulfill below requirements may have citizenship restored upon taking oath of allegiance:</p> <p>(1) 2 years continuous physical presence between ages 14 and 28; * or</p> <p>(2) 5 years continuous physical presence between ages 14 and 28 if begun before 10/27/72 **</p> <p>(3) None if parent employed in certain occupation ***.</p> <p>(4) None if child born on or after 10/10/52</p> <p>(5) None if alien parent naturalized and child began to reside permanently in U.S. while under age 18</p>	<p>Sec. 324(d)(1) INA § 101 P.L. 103-416</p> <p>(1) Former Sec. 301(b), (c) INA; 7 FAM 1134.5</p> <p>(2) Former Sec. 301(b), (d) INA; 7 FAM 1133.5-1a, 1133.5-2, 1133.5-8</p> <p>(3) 201(g) NA; 7 FAM 1134.5-2</p> <p>(4) P.L. 95-432; 7 FAM 1133.5-14</p> <p>(5) Former Sec. 301(b) INA; 7 FAM 1133.5-6, 1133.5-10</p>
12/24/52 through 11/14/68	<p>(1) Father physically present in U.S. or possession 10 years prior to child's birth, five of which after age 14. Honorable U.S. military service, employment with U.S. Government or intergovernmental international organization, or as dependent unmarried son or daughter and member of the household of a parent in such service or employment, may be included; and</p> <p>(2) Paternity established under age 21 by the legitimation law of father's or child's residence/domicile.</p>	<p>301(a)(7) INA</p> <p>Sec. 309(a) INA as originally enacted</p>	None	

CHILD BORN OUT OF WEDLOCK TO U.S. CITIZEN FATHER AND ALIEN MOTHER—Continued

Date of Birth	Transmission and Legal Relationship Requirements	Reference	Retention Requirements	Reference
After 11/14/68 up to or before 11/14/71	<p>(1) Father physically present in U.S. or possession 10 years prior to child's birth, 5 of which after age 14. Honorable U.S. military service, employment with U.S. Government or intergovernmental international organization, or as dependent unmarried son or daughter and member of the household of a parent in such service or employment, may be included; and</p> <p>(2)(A) Blood relationship established between father and child, father a U.S. citizen at time of child's birth, father (unless deceased) agrees in writing to support child until 18 years, and while child is under 18 years (i) child is legitimated, (ii) father acknowledges paternity, or (iii) paternity established by court adjudication; or</p> <p>(B) Paternity is established under age 21 by the legitimation law of father's or child's residence/domicile.</p>	<p>301(a)(7) INA</p> <p>Sec. 309(a) INA as amended 11/14/86, 102 Stat. 2619</p> <p>Sec. 309(a) INA as originally enacted</p>	None	
After 11/14/71 and before 11/14/86	<p>(1) Father physically present in U.S. or possession 10 years prior to child's birth, 5 of which after age 14. Honorable U.S. military service, employment with U.S. Government or intergovernmental international organization, or as dependent unmarried son or daughter and member of the household of a parent in such service or employment, may be included; and</p> <p>(2) Blood relationship established between father and child, father a U.S. citizen at time of child's birth, father (unless deceased) agrees in writing to support child until 18 years, and while child is under 18 years (i) child is legitimated, (ii) father acknowledges paternity, or (iii) paternity established by court adjudication.</p>	<p>301(a)(7) INA</p> <p>Sec. 309(a) INA, as amended 11/14/86; 102 Stat. 2619</p>	None	

Date of Birth	Transmission and Legal Relationship Requirements	Reference	Retention Requirements	Reference
On or after 11/14/86	(1) Father physically present in U.S. or possession 5 years prior to child's birth, 2 of which after age 14. Honorable U.S. military service, employment with U.S. Government or intergovernmental international organization, or as dependent unmarried son or daughter and member of the household of a parent in such service or employment, may be included; and (2) Blood relationship established between father and child, father a U.S. citizen at time of child's birth, father (unless deceased) agrees in writing to support child until 18 years, and while child is under 18 years (i) child is legitimated, (ii) father acknowledges paternity, or (iii) paternity established by court adjudication.	Sec. 301(g) INA Sec. 309(a) INA, as amended 11/14/86; 102 Stat. 2619	None	

**** Absences of less than one year in aggregate during 5 year period do not break continuity.**

*** U.S. Government, American educational, scientific, philanthropic, religious, commercial, o

International Agency in which the U.S. takes part.

Note: Residence or physical presence of parent

Section 301(h) of INA took effect Oct. 25, 1994.

Section 324(d) of INA took effect March 1, 1995

E. TABLE OF APPLICABILITY OF GROUNDS OF VISA INELIGIBILITY AND WAIVERS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

(Source: Visa Office, Department of State; as of January 1, 1995; NOTE.—This table is intended for use only as a useful generalized reference guide, and *not* to make determinations or to be cited in any case.)

(NOTE: All references are to sections in the Immigration and Nationality Act. "NIV" refers to nonimmigrant visas, and "IV" refers to immigrant visas.)

INA Provision	Ground for Visa Ineligibility* (Tense)	Waiver Availability
212(a)(1)	Health Related Grounds	NIV: 212(d)(3)(A).
212(a)(1)(A)(i)	Communicable disease of public health significance (present)	IV: 212(g) with relationship with conditions at discretion of the Attorney General in consultation with Health and Human Services.
212(a)(1)(A)(ii)	Physical or mental disorder and behavior which may pose a threat, or which has posed a threat to property or safety, and is likely to recur (present)	IV: 212(g) with conditions at discretion of the Attorney General in consultation with Health and Human Services.
212(a)(1)(A)(iii)	Drug abuser or addict (present)	IV: None
212(a)(2)	Criminal Grounds	NIV: 212(d)(3)(A)
212(a)(2)(A)(i)(I)	Crime involving moral turpitude (past)	IV: 212(h) with relationship, or offense occurred at least 15 years prior to application. No waiver for murder or criminal acts involving torture.
212(a)(2)(A)(i)(II)	Violation of any law relating to a controlled substance (past)	212(c) (certain returning residents). IV: 212(h) with relationship, or offense occurred at least 15 years prior to application.
212(a)(2)(B)	Multiple convictions (past)	IV: 212(h) with relationship, or offense occurred at least 15 years prior to application. No waiver for murder or criminal acts involving torture.
212(a)(2)(C)	Controlled substance traffickers (past or present)	IV: No waiver.
212(a)(2)(D)	Prostitution and commercialized vice within past 10 years (past or present)	IV: 212(h) with relationship, or offense occurred at least 15 years prior to application.
212(a)(2)(E)	Aliens who are asserted immunity from prosecution.	IV: 212(h) with relationship, or offense occurred at least 15 years prior to application.
212(a)(3)	Security Grounds	NIV: New language excludes waiver for (3)(A), (C), and (E).
212(a)(3)(A)	Espionage, sabotage, or prohibited export of sensitive technology (present)	IV: No waiver.
212(a)(3)(B)	Terrorist activity (past or present)	IV: No waiver.
212(a)(3)(C)	Entry would have potentially serious adverse foreign policy consequences (present)	IV: No waiver, but applies only in present tense.
212(a)(3)(D)	Membership in or affiliation with Community or other totalitarian party. Ineligibility only for IV (present or recent past)	IV: 212(a)(3)(D)(iv). Waiver with relationship.
212(a)(3)(E)	Nazi persecution or genocide (past)	IV: No waiver.

INA Provision	Ground for Visa Ineligibility* (Tense)	Waiver Availability
212(a)(4)	Public charge (present)	NIV: 212(d)(3)(A), 213, 221(g). IV: Overcome or first proviso of 221(g) and 212(c) (certain returning residents).
212(a)(5)	Seeking employment (not applicable to family-related or diversity immigrant categories) (present)	NIV: Not applicable IV: Overcome with labor certification.
212(a)(6)	Illegal entrants and immigration violators	NIV: 212(d)(3)(A) or INS permission to reapply.
212(a)(6)(A)	Previously excluded and deported (ineligible for 1 year)	IV: INS permission to reapply (Form I-212).
212(a)(6)(B)	Arrested and deported (ineligible for 5 years or 20 years in the case of aggravated felonies)	IV: INS permission to reapply (Form I-212).
212(a)(6)(C)	Misrepresentation/visa fraud (past)	IV: 212(i) with relationship, or offense occurred at least 10 years prior to application.
212(a)(6)(D)	Stowaways (present)	No waiver.
212(a)(6)(E)	Smuggled or aided or abetted other aliens to enter unlawfully (past)	IV: 212(d)(11) waiver available only to legal permanent resident or IR, FB-1, FB-2, and FB-3 who has aided own spouse, parent, son, or daughter.
212(a)(6)(F)	Subject to civil penalty under section 274C (present)	IV: No waiver.
212(a)(7)	Documentation Requirements	IV: No waiver.
212(a)(7)(A)	No entry documentation (immigrants) (at port of entry only) (present)	IV: 212(k)
212(a)(7)(B)	Nonimmigrants not in possession of valid passport and non-immigrant visa or border crossing card (present)	NIV: 212(d)(4) IV: Not applicable.
212(a)(8)	Ineligible for Citizenship	
212(a)(8)(A)	Permanently ineligible for citizenship (present)	NIV: Not applicable IV: No waiver.
212(a)(8)(B)	Evaded draft in time of war or national emergency (past)	NIV: 212(d)(3)(A), if applicable. IV: No waiver except 212(c) (certain returning residents). Vietnam era draft evaders may benefit from Presidential pardon.
212(a)(9)	Miscellaneous	
212(a)(9)(A)	Practicing polygamists (applicable only to immigrants) (present)	NIV: Not applicable. No waiver except 212(c) (certain returning residents).
212(a)(9)(B)	Guardian accompanying excludable alien (applicable only at port of entry) (present)	NIV: 212(d)(3)(A) or INS permission to reapply. IV: INS permission to reapply.
212(a)(9)(C)	International child abduction (past)	NIV: 212(d)(3)(A). IV: No waiver.

*Grounds of visa ineligibility apply to both NIV and IV unless otherwise stated.

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